

South Carolina Department of Insurance Property and Casualty Filing Checklist



South Carolina Department of Insurance
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South Carolina
Department of Insurance
Property & Casualty Filing Checklist

This checklist is intended to be used as a tool by the insurer to properly prepare and submit filings with the South Carolina Department of Insurance. Please use the ***South Carolina Property and Casualty "Type of Insurance"*** guide along with this checklist.

Please know that improper and/or incomplete filings will result in an automatic disapproval. Filings submitted that are not in compliance with all of the requirements will also result in an automatic disapproval.

Please contact the Rates, Rules and Forms Filings Office directly at 803-737-6230 if you have questions regarding property and casualty filings. Please do not contact an employee referenced in the attached bulletin(s) as they may no longer be with the Department or their position within the Department may have changed.

Line Code	DOI Series	Line of Business Description	Type of Filing	How Filing Handled
51 11	100/300	Fire/Residential	Form	Prior Approval
51 11	100/300	Fire/Residential	Rule	Prior Approval
51 11	100/300	Fire/Residential	Rate, Rule	Prior Approval (Over 7%)
51 11	100/300	Fire/Residential	Rate, Rule	File & Use (+/-7%)
51 12	100/200	Fire/Commercial	Rate, Rule	Closed-Exempt <i>No filing required</i>
51 12	100/200	Fire/Commercial	Form	Closed-Use & File
52 10	100/300	Multi-Peril/ Homeowners	Form	Prior Approval
52 10	100/300	Multi-Peril/ Homeowners	Rule	Prior Approval
52 10	100/300	Multi-Peril/ Homeowners	Form. Rate, Rule	Prior Approval (Over 7%)
52 10	100/300	Multi-Peril/ Homeowners	Form. Rate, Rule	File & Use (+/-7%)
52 20	100/300	Multi-Peril/Farm owners	Form	Prior Approval
52 20	100/300	Multi-Peril/Farm owners	Rule	Prior Approval
52 20	100/300	Multi-Peril/Farm owners	Form. Rate, Rule	Prior Approval (Over 7%)
52 20	100/300	Multi-Peril/Farm owners	Form. Rate, Rule	File & Use (+/-7%)
52 30	100/300	Multi-Peril/Mobile Homeowners	Form	Prior Approval
52 30	100/300	Multi-Peril/Mobile Homeowners	Rule	Prior Approval
52 30	100/300	Multi-Peril/Mobile Homeowners	Form. Rate, Rule	Prior Approval (Over 7%)

Line Code	DOI Series	Line of Business Description	Type of Filing	How Filing Handled
52 30	100/300	Multi-Peril/Mobile Homeowners	Form. Rate, Rule	File & Use (+/-7%)
53 00	100/200	Commercial/Multi-Peril	Rate, Rule	Closed-Exempt <i>No filing required</i>
53 00	100/200	Commercial/Multi-Peril	Form	Closed-Use & File
54 21	100/300	Marine/Inland Personal	Form, Rate, Rule	Prior Approval
54 22	100/200	Marine/Inland Commercial	Rate, Rule	Closed-Exempt <i>No filing required</i>
54 22	100/200	Marine/Inland Commercial	Form	Closed-Use & File
56 00	100/400	Workers' Comp	Rate-Loss Cost Multiplier for the Insurance Company	Prior Approval
56 00	100/400	Workers' Comp	Rate-Loss Cost for the Rating Org.	Prior Approval
56 00	100/400	Workers' Comp	Rate, Rule	Prior Approval
56 00	100/400	Workers' Comp	Form	Closed-Use & File
57 10	100/200	All Liability/Liability (Garage Liability)	Rate, Rule	Closed-Exempt <i>No filing required</i>
57 10	100/200	All Liability/Liability (Garage Liability)	Form	Closed-Use & File
57 20	100/200	All Liability/Liability Professional (Directors & Officers Liability)	Rate, Rule	Closed-Exempt <i>No filing required</i>
57 20	100/200	All Liability/Liability Professional	Form	Closed-Use & File

Line Code	DOI Series	Line of Business Description	Type of Filing	How Filing Handled
57 21	100/300	All Liability/Liability Professional/ Physicians/ Surgeons/Dentists (Medical Malpractice)	Form, Rate, Rule	Prior Approval
57 22	100/200	All Liability/Liability Professional/ Lawyers	Rate, Rule	Closed-Exempt <i>No filing required</i>
57 22	100/200	All Liability/Liability Professional/ Lawyers	Form	Closed-Use & File
57 90	100/300	All Liability/ Liability/ All Other (Personal Liability)	Rate, Rule	Prior Approval
57 90	100/300	All Liability/ Liability/ All Other (Personal Liability)	Form	Prior Approval
58 11	100/500	Auto (All Lines)/ Personal Lines	Form	Prior Approval
58 11	100/500	Auto (All Lines)/ Personal Lines	Rule	Prior Approval
58 11	100/500	Auto (All Lines)/ Personal Lines	Form, Rate, Rule	Prior Approval (over 7%)
58 11	100/500	Auto (All Lines)/ Personal Lines	Form, Rate, Rule	File & Use (+/-7%)
58 21	100/500	Auto (All Lines)/ Commercial Lines	Rate, Rule	Closed-Exempt <i>No filing required</i>
58 21	100/500	Auto (All Lines)/ Commercial Lines	Form	Closed-Use & File
60 00	100/300	Aircraft All Perils Personal	Form, Rate, Rule	Prior Approval
60 00	100/200	Aircraft All Perils Commercial	Rate, Rule	Closed-Exempt <i>No filing required</i>
60 00	100/200	Aircraft All Perils Commercial	Form	Closed-Use & File

Line Code	DOI Series	Line of Business Description	Type of Filing	How Filing Handled
61 10	100/200	Fidelity	Rate, Rule	Closed-Exempt <i>No filing required</i>
61 10	100/200	Fidelity	Form	Closed-Use & File
62 20	100/200	Misc./Casualty Burglary/Theft/ Crime	Rate, Rule	Closed-Exempt <i>No filing required</i>
62 20	100/200	Misc./Casualty Burglary/Theft/ Crime	Form	Closed-Use & File
62 30	100/200	Misc./Casualty Boiler/Machinery	Rate, Rule	Closed-Exempt <i>No filing required</i>
62 30	100/200	Misc./Casualty Boiler/Machinery	Form	Closed-Use & File
62 51	100/300	Misc./Casualty Credit Unemployment	Form, Rate, Rule	Prior Approval
62 52	100/300	Misc./Casualty Credit Non-Consumer	Form, Rate, Rule	Prior Approval
63 00	100/200	Mortgage Guaranty	Rate, Rule	Closed-Exempt <i>No filing required</i>
63 00	100/200	Mortgage Guaranty	Form	Closed-Use & File
64 00	100/300	Title	Form, Rate, Rule	Prior Approval
65 00	100/200	Financial Guaranty	Rate, Rule	Closed-Exempt <i>No filing required</i>
65 00	100/200	Financial Guaranty	Form	Closed-Use & File
66 23	100/200	Earthquake/Allied Lines/Commercial	Rate, Rule	Closed-Exempt <i>No filing required</i>
66 23	100/200	Earthquake/Allied Lines/Commercial	Forms	Closed-Use & File
66 23	100/300	Earthquake/Allied Lines/Personal	Form, Rate, Rule	Prior Approval
67 25	100/200	Federal Flood/ Allied Lines	Rate, Rule	Closed-Exempt <i>No filing required</i>

Line Code	DOI Series	Line of Business Description	Type of Filing	How Filing Handled
67 25	100/200	Federal Flood/ Allied Lines	Form	Closed-Use & File
69 10	100/300	Surety	Form, Rate, Rule	Prior Approval
71 24	100/200	Multi-Peril Crop/ Allied Lines	Rate, Rule	Closed-Exempt <i>No filing required</i>
71 24	100/200	Multi-Peril Crop/ Allied Lines	Form	Closed-Use & File
74 20	100/300	Allied Lines/ Vendors Single Interest	Form, Rate, Rule	Prior Approval
74 21	100/300	Allied Lines/ Residential	Form, Rate, Rule	Prior Approval
74 22	100/200	Allied Lines/ Commercial	Rate, Rule	Closed-Exempt <i>No filing required</i>
74 22	100/200	Allied Lines/ Commercial	Form	Closed-Use & File
74 30	100/300	Allied Lines/Credit Property	Form, Rate, Rule	Prior Approval
98 00	100/200	All Other Lines/ Debt Cancellation/ GAP	Rate, Rule	Closed-Exempt <i>No filing required</i>
98 00	100/200	All Other Lines/ Debt Cancellation/ GAP	Form	Closed-Use & File
98 00	100/300	All Other Lines/ Personal Excess Liability	Form, Rate, Rule	Prior Approval
98 50	100/200	All Other Lines/ Mechanical Breakdown/Service Contract	Rate, Rule	Closed-Exempt <i>No filing required</i>
98 50	100/200	All Other Lines/ Mechanical Breakdown/Service Contract	Form	Closed-Use & File
98 96	100/200	All Other Lines/ Glass	Rate, Rule	Closed-Exempt <i>No filing required</i>
98 96	100/200	All Other Lines/ Glass	Form	Closed-Use & File

100 DOI SERIES NUMBERS - POLICIES AND POSITIONS

This section applies to all policies.

100. Department Policies and Positions

Yes ☐ No ☐ N/A ☐

Note:

Filings submitted that are not in compliance with the below requirements will result in the automatic "Disapproval" of such filing.

All filings must be submitted and directed to the attention of the Property & Casualty Division. If the insurer has multiple companies, the filings must be separated for *each company*. If the insurer(s) wants a complete copy for their records stamped "Approved", a complete copy must be provided. Please include a self-addressed stamped envelope with filings LARGE enough to return insurer(s) copy. It is the position of the DOI, any insurer(s) not providing the additional copy for their records and/or an envelope large enough, will have to go to the DOI's website and print the "Approval information" for their records or the insurer(s) can visit the Central Files area of the DOI and make their own "Approval" copy. You must call and make an appointment at 803-737-6227, ask for the Central Files area.

When an insurance company sends in an AMENDMENT TO A FILING, which has already been "Approved" by the Department, the amendment(s) will be handled as A *NEW FILING*. THIS WILL include such changes as EFFECTIVE DATES, TYPOGRAPHICAL ERRORS, and ANY OTHER INFORMATION, which would amend the original "STAMPED APPROVED" filing. Please show on Form 2004 that this filing is an amendment to the SCDOI Filing # (example 100100. FOR AMENDMENTS TO A RATE FILING - DO NOT SHOW A OVERALL PERCENTAGE OF CHANGE ON FORM 2004. The information on the Form #2004 is public information and is so when filed.

The position of the Department is that a filing is "Approved" *on or after* the date stamped "Approved". The position of the Department is that "Non-Adoption" filings of a rating organization will be treated as "Use and File" filing.

The position of the Department is THAT if a company has a change of name - (Example: ABC Insurance Company changed its name to XYZ Insurance Company then ALL NEW forms, rules and rates showing the NEW INSURANCE COMPANY NAME, LOGO'S OR OTHER MANDATORY INFORMATION MUST be filed AND "APPROVED" by this Department prior to there use.

Any insurer(s) requesting a change in rates (increase or decrease must include an Exhibit with the percentage change by territory. Also, please provide complete actuarial justification of such change.

101. Form 2004 Required On All Filings

Yes ☐ No ☐ N/A ☐

Note:

IMPORTANT CHANGE FOR ALL FILINGS BEING SUBMITTED AS OF 3-1-06: PLEASE ATTACH FORM #2004 TO THE COVER LETTER OF EACH INDIVIDUAL COMPANY FILE TO COMPLETE THE FILING PROCESS.

A separate Form #2004 must be completed for EACH *Company* and for EACH *Line of Business*. Do not complete the form on a group basis. This form must be submitted in DUPLICATE for each company filed.

Please see Form # 2004

Fill out Form 2004 in its entirety.

If this filing is for a new product, please state in the Cover Letter "New Product".

102.	Cover Letter	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please provide a cover letter with a "re" which provides a company tracking number in which the company assigns to this filing. Also, state whether the filing is for "Commercial" or "Personal" lines and list the intent of the filing. If forms are being changed, please provide a listing of all the changes.</p>		
103.	Section 38-1-20 Definitions	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
104.	Section 38-75-720 and 38-75-730 Cancellation	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Also see Bulletin 2007-05 – Omnibus Bill</p>		
105.	Section 38-75-740 Non-Renewal	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Also see Bulletin 2007-05 – Omnibus Bill</p>		
106.	Section 38-75-750 Renewal Notice	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Also see Bulletin 2007-05 – Omnibus Bill</p>		
107.	Section 38-75-760 Midterm Cancellation	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Also see Bulletin 2007-05 – Omnibus Bill</p>		
108.	Bulletin 75-9 Situs of Contract	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
109.	Section 38-73-330 Rates - Property	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
110.	Section 38-73-530 Non-licensed Compete	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
111.	Section 38-73-915 Legislation-Case Law	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
112.	Section 38-73-940 Public Information	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
113.	Schedule Debits and Credits	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Schedule debits may not exceed a maximum of 25% of the standard rate nor shall schedule credits exceed 40% of the standard rate. For workers' compensation, the maximum credit or debit is 25%.</p>		
114.	Non-Refundable Premium	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: The Department will allow a non-refundable "minimum premium" of \$10.00.</p>		
115.	Department's Position on Rate Tiers	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: The Department allows the use of rate tiering. Separate tiers within one company must be filed with the Department. The tiers must be mutually exclusive if filed within one company.</p>		

116.	Policy Fixed/Extra Fees	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2006-08</p>		
117.	Section 38-75-40 Coinsurance	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
118.	Section 38-75-50 Mortgage	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
119.	Section 38-75-60 Tenant Applicable	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
120.	Section 38-75-310 Essential Property	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2007-10</p>		
121.	Section 38-75-10 County	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
122.	Section 38-75-20 Stated Value	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
123.	Section 38-75-30 Replacement	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
124.	Fire Protection Classes	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: The use of fire protection classes other than ISO is not permitted.</p>		
125.	Section 38-75-790 Act of God	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
126.	Section 38-73-1095 Coastal Rates	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2007-10</p>		
127.	Section 38-75-210 Policy Period	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
128.	Section 38-75-220 Stated Value	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
129.	Section 38-75-230 Notice Requirement	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
130.	Business Plan - Domestic Insurers	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
131.	NA	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
132.	Waiver of Premium Refund	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: An insurer may file to waive a return premium under a certain amount but should include language that an insured may request the refund no matter how small and it will be returned.</p>		

200 DOI SERIES NUMBERS - POLICIES AND POSITIONS

This section applies to all policies.

200. Regulation 69-64

Yes ☐ No ☐ N/A ☐

Note:

Insurers establishing rates and rules for a product must still comply with the law. The fact that a filing may be "Exempt" simply means that it does not need to be filed; the laws still apply. The Department recommends that a filing be prepared and maintained by the insurer in a file that we refer to as a "Desk File". When conducting examinations, the Department may ask for such a file. Also, from time to time, the Department may survey insurers concerning rate levels. Filings made to the Department will be stamped "Exempt". This is to indicate that the Department did review the filing. Please see Regulation 69-64.

201. Expedited Filing Transmittal Document For Terrorism Risk Insurance Forms and Pricing (Form 2010)

Yes ☐ No ☐ N/A ☐

Note:

Please refer to Bulletin 2003-01.

202. Section 38-73-430 Actuarial Exhibits Required for Rates and/or Rules

Yes ☐ No ☐ N/A ☐

Note:

The Department requires justification for rate and rule changes. That justification should be actuarial in nature. There are many papers published by the Casualty Actuarial Society regarding various rate filings. The Department does not require an accredited actuary sign off on the filings but actuarial techniques should be used. An insurer entering a new market or an insurer lacking credible data may use competitor information to justify rates.

Desk files for "Exempt" filings should include the actuarial exhibits.

Please see Bulletin 2006-09.

300 DOI SERIES NUMBERS - POLICIES AND POSITIONS

This section applies to all policies.

300. Property and Casualty Modernization Act Legislation	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2004-09</p>	
301. Section 38-73-220 Flex Band Rating	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
302. Section 38-73-260 Flex Band Rating	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
303. Section 38-73-340 Rate Filings Required	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
304. Section 38-73-520 Rate Filings Required	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
305. Section 38-73-920 One Increase per Year	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
306. Section 38-73-950 – Additional Information May be Required	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
307. Section 38-73-960 Approval	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
308. Section 38-73-980 – Surety & Guaranty Bonds	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
309. Section 38-75-1140 Modeling Organizations	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
310. Section 38-75-1150 – Separate Fire & Allied Premium	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2004-11</p>	
311. Section 38-75-1160 Cancellation	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Also see Bulletin 2007-05 – Omnibus Bill Also see Bulletin 2004-11</p>	
312. Section 38-75-1170 – Disclosure Requirements	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
313. Section 38-75-1180 Cancellations & Nonrenewals	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Also see Bulletin 2007-05 – Omnibus Bill</p>	
314. Section 38-75-1200 Cancellation in Application	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2004-11</p>	
315. Section 38-75-1210 Prohibited Grounds for Refusal to Issue	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

316.	Section 38-75-1220 Prohibited Grounds for Refusal to Renew	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
317.	Section 38-75-1230 Wind and hail exclusions on fire, allied lines, or homeowner's policy. Note: Also see Bulletin 2007-05 – Omnibus Bill	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
318.	Section 38-75-1240 Underwriting Restrictions based on Geography	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
319.	Section 38-73-325 Absence of Credit Information	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
320.	Section 38-73-425 Absence of Credit Information Note: Please see Bulletin 2004-11	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
321.	Section 38-73-430 Actuarial Exhibits Required for Rates and/or Rules Note: Please see Bulletin 2006-09. Please see Actuarial Exhibits The Department requires justification for rate and rule changes. That justification should be actuarial in nature. There are many papers published by the Casualty Actuarial Society regarding various rate filings. The Department does not require an accredited actuary sign off on the filings but actuarial techniques should be used. An insurer entering a new market or an insurer lacking credible data may use competitor information to justify rates. Desk files for "Exempt" filings should include the actuarial exhibits.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
322.	GAP Position Note: Please see the position on GAP	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
323.	Credit Related Filings Note: Please complete the Credit Related Filing Form for <i>ALL Credit Related Filings</i> See the Credit Related Filing Form and Credit Insurance Memorandum.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
324.	Definition of Title Insurance Note: "Title insurance" means insurance of the owners of real property and other persons lawfully interested therein against loss by reason of defective titles and undisclosed liens and encumbrances affecting the property.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
325.	Expedited Filing Transmittal Document For Terrorism Risk Insurance Forms and Pricing – Form 2010 Note: Please refer to Bulletin 2003-01.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>

400 DOI SERIES NUMBERS - POLICIES AND POSITIONS

This section applies to all policies.

National Council on Compensation Insurance (NCCI is the "Plan Administrator" for Workers Compensation Insurance in South Carolina.

NCCI's website – www.ncci.com

NCCI's Phone # 1-800-622-4123

400. Section 38-73-910 Public Notice Yes ☐ No ☐ N/A ☐

401. Section 38-73-510 Rating Origination Yes ☐ No ☐ N/A ☐

402. Section 38-73-515 Small Deductibles Yes ☐ No ☐ N/A ☐

403. Section 38-73-490 Class Rates Yes ☐ No ☐ N/A ☐

404. Section 38-73-495 Rate Authority Yes ☐ No ☐ N/A ☐

405. Section 38-73-500 Uniform Merit Rating Yes ☐ No ☐ N/A ☐

406. Section 38-73-520 Rates Filed Yes ☐ No ☐ N/A ☐

407. Large Deductibles Yes ☐ No ☐ N/A ☐

Note:

Please refer to our policy position regarding this matter.

408. Bulletin 90-5 Form for filing loss costs. Yes ☐ No ☐ N/A ☐

Note:

Also see Bulletins 2007-13 and 2007-13b.

Please see Form 2007-A

409. Regulation 69-24 WC Dividend Programs Yes ☐ No ☐ N/A ☐

410. Bulletin 97-3 Drug Free Workplace Credit Yes ☐ No ☐ N/A ☐

Note:

NCCI's Form 39-1 - Application for Drug and Alcohol-Free Workplace Premium Credit Program

You can also visit the NCCI's website @ www.ncci.com for information. Use the "SEARCH" feature on this site for information on "Drug Free Workplace Credit".

411. Actuarial Exhibits Required

Yes ☐ No ☐ N/A ☐

Note:

Please see Bulletin 2006-09.

The Department requires justification for rate and rule changes. That justification should be actuarial in nature. There are many papers published by the Casualty Actuarial Society regarding various rate filings. The Department does not require an accredited actuary sign off on the filings but actuarial techniques should be used.

An insurer entering a new market or an insurer lacking credible data may use competitor information to justify rates.

Desk files for "Exempt" filings should include the actuarial exhibits.

500 DOI SERIES NUMBERS - POLICIES AND POSITIONS

This section applies to all policies.

South Carolina Associated Auto Insurers (SCAAIPS is the "Plan Administrator" for Commercial Automobile Insurance in South Carolina.

SCAAIP @ <http://www.aipso.com/sz>

500. Section 38-77-30 Definitions Yes ☐ No ☐ N/A ☐

501. Section 38-77-350 UM Offer Yes ☐ No ☐ N/A ☐

Note:

Please see Bulletin 2006-03

Also see Bulletin 2006-01.

Please see FAQs

A reference book is also available from the South Carolina Bar Association called, "The Law of Automobile Insurance in South Carolina". The book contains extensive case law research on "Automobile" topics.

502. Section 38-73-470 UM One Dollar Yes ☐ No ☐ N/A ☐

Note:

Please see Bulletin 2004-08

503. Section 38-73-1105 Underinsured Yes ☐ No ☐ N/A ☐

504. Section 38-77-150 Uninsured Motorist Yes ☐ No ☐ N/A ☐

505. Section 38-77-151 Uninsured Fund Yes ☐ No ☐ N/A ☐

506. Section 38-77-154 Uninsured Fund Yes ☐ No ☐ N/A ☐

507. Section 38-77-155 Uninsured Fund Yes ☐ No ☐ N/A ☐

508. Section 38-77-160 Underinsured Yes ☐ No ☐ N/A ☐

509. Section 38-77-170 UM Claims Yes ☐ No ☐ N/A ☐

510. Section 38-77-190 UM Subrogation Yes ☐ No ☐ N/A ☐

511. Section 38-77-200 UM Arbitration Yes ☐ No ☐ N/A ☐

512. Section 38-77-210 UM Property Yes ☐ No ☐ N/A ☐

513. Section 38-73-480 Group Yes ☐ No ☐ N/A ☐

514.	Section 38-77-130 Group	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
515.	Section 38-77-120 Renewals Cancellation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Please see definition of a "policy of automobile insurance" - Section 38-77-30</p>				
516.	Section 38-77-121 Required Statement	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Please see definition of a "policy of automobile insurance". Section 38-77-30 Please see South Carolina Department of Motor Vehicles - Bulletin 2005-03-10</p>				
517.	Section 38-77-122 Refuse to Issue	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Please see definition of a "policy of automobile insurance". Section 38-77-30</p>				
518.	Section 38-77-123 Non-Renewal	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Please see definition of a "policy of automobile insurance". Section 38-77-30</p>				
519.	Section 38-77-124 Territorial Plan	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Please see definition of a "policy of automobile insurance". Section 38-77-30</p>				
520.	Section 38-77-390 Information Disclosure	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
521.	Section 38-73-736 Age 55	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: If you have an adult driver training credit, then this statute is satisfied.</p>				
522.	Section 38-73-737 Driver Training	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
523.	Section 38-73-740 Credit Reports	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
524.	Section 38-77-125 Required Names	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Every automobile insurance policy or other policy containing automobile insurance coverage on the face of the policy must state the complete name of the company issuing the policy, its address, and telephone number. There is no longer a requirement for a resident adjuster.</p>				

525.	Section 38-77-126 Tier Disclosure	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Note: Effective March 1, 1999, a disclosure notice must disclose where rate level higher than lowest tier for that insurer or group. Most insurers perform this notice on the declarations page.</p>				
526.	Section 38-73-935 Beyond Limits	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
527.	Section 38-77-112 Driver's License	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
528.	Section 38-77-140 Bodily Injury and Property Damage Limits	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
529.	Section 38-77-141 New Policy Notice	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
530.	Section 38-77-142 Policy Provisions	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
531.	Section 38-77-143 Primary	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
532.	Section 38-77-180 John Doe	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
533.	Section 38-77-220 Other Insurance	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
534.	Section 38-77-230 Admission	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
535.	Section 38-77-260 Release	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
536.	Section 38-77-270 Healing Art	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
537.	Section 38-77-280 Glass Deductible	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>

538.	Section 38-77-330 Claim Denial	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
539.	Section 38-77-340 Exclusion of Operator Note: Please see Bulletin 74-32 Please see Bulletin 2004-10	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
540.	Section 38-77-341 Unfair Trade	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
541.	Section 38-77-370 Information Requests	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
542.	NA	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
543.	Non-Refundable Premium Note: The Department will allow a non-refundable "minimum premium" of \$10.00.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
544.	Bulletin 78-8 Fire Taxes Applicable Note: Insurers must track information on counties and place information on the policy.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
545.	Rate Tiers Note: The Department allows the use of rate tiering. Separate tiers within one company must be filed with the Department. The tiers must be mutually Please see Bulletin 98-2	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
546.	ID Cards Note: Please see Bulletin 97-2	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
547.	Section 56-10-280 Policy Term	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
548.	N/A	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
549.	Manual Pages Note: The Department does not require final printed manual pages be filed before approval. If a filing is approved, an insurer must send the final printed manual pages to the Department to be stamped approved also.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

550.	SR-22	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Filed proof of insurance in the form of an SR-22 must remain in effect a minimum of 90 days unless cancelled by the company for reasons other than non-payment of premium. Cancellation for non-payment is allowed on the 91st day. The appropriate statute is 56-9-550.</p>		
551.	Recoupment	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Recoupment is 10% of the liability premium for drivers as specified in Bulletin 2001-4(B and Bulletin 2001-5(B. There is no recoupment for Commercial Automobile policies.</p>		
552.	Variable Commission	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 98-2 – clarifies the Department’s position with regard to agents and multiple commission levels. See question 5. In summary, rating tiers that vary solely by commission are allowed but they must be filed so that each tier is in a separate insurer of a group of insurers.</p>		
553.	Policy Fixed/Extra Fees	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Please see Bulletin 2006-08 Please see FAQs</p>		
554.	Credit Scoring	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Credit scoring may be used in underwriting and in rating of automobile policies. If used in rating, the specific criteria used in calculating the credit score must be filed with the Department and the filing must include loss experience justifying the applicable surcharge or credit. The following requirements will be imposed upon private passenger automobile insurers that intend to use credit scoring:</p> <ol style="list-style-type: none"> 1. credit scoring will not be allowed as the sole factor upon which any insurer makes its decision not insure an individual risk, 2. credit scoring may be used to rate individual insureds among tiers, 3. SCDOI will require the individual insurers, as part of their rate filings, include listings of factors used to score individual risks, the methodology used to develop each factor and the weights given to each factor, 4. any filer may request that its data be kept proprietary as a commercially-valuable trade secret and designate parts or all of its filings accordingly. The Department, absent court order, will not release information which is filed on a proprietary basis. Section 30-4-40(1). 5. each insurer must justify, by appropriate actuarial data, each tier's rate for both liability and physical damage as separate calculations. 		

555.	Symbol Changes	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Changes in cost class symbols for specific vehicles based upon company experience must be justified. The manual rule must include the methodology for changing vehicle symbols. If such methodology is provided in the filing, the changes to the symbols would not each, individually, constitute a rate increase for the insurer and would not cause a delay of one year before the insurer could file for a rate increase.</p>		
556.	Expense Constants	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Expense constants by coverage such as collision or comprehensive are allowed in South Carolina provided they become part of the premium charged. Please also see #553.</p>		
557.	Section 38-73-430 Actuarial Exhibits Required for Rates and/or Rules	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: The Department requires justification for rate and rule changes. That justification should be actuarial in nature. There are many papers published by the Casualty Actuarial Society regarding various rate filings. The Department does not require an accredited actuary sign off on the filings but actuarial techniques should be used. An insurer entering a new market or an insurer lacking credible data may use competitor information to justify rates. Desk files for "Exempt" filings should include the actuarial exhibits. Please see Bulletin 2006-09.</p>		
558.	Section 38-77-30(7 Defined Insured	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
559.	Section 38-61-30 Reg. 5.1 Readability	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
560.	Conformity	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: An insurer may not seek reimbursement from an insured for claims paid in a state with higher limits than South Carolina requires.</p>		
561.	Credits and Debits Commercial	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: For commercial auto, the maximum schedule credit allowed is 40% and the maximum schedule debit allowed is 25%.</p>		
562.	Vehicle Age	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: An insurer may not refuse to write a liability auto insurance policy based upon vehicle age solely.</p>		
563.	Waiver of Premium Refund	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: An insurer may file to waive a return premium under a certain amount but should include language that an insured may request the refund no matter how small and it will be returned.</p>		
564.	Paid in Full Discount	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<p>Note: Paid in Full Discounts are allowed.</p>		

565. Section 38-73-910 Prior Approval or File and Use Yes ☐ No ☐ N/A ☐

566. Rate Change by Territory Yes ☐ No ☐ N/A ☐

Note:

Any insurer(s) requesting a change in rate (increase or decrease) must include an Exhibit with the percentage change by territory. Also, please provide complete actuarial justification of such change.

567. Section 38-43-200(e) Rebating Yes ☐ No ☐ N/A ☐

568. Personal Injury Protection Yes ☐ No ☐ N/A ☐

Note:

This coverage is not required in South Carolina.

569. Paintless Dent Repair Yes ☐ No ☐ N/A ☐

Note:

It is the Department's position that insurers should not limit payment based upon repair method such as "Dentless Repair."

570. Diminution of Value Yes ☐ No ☐ N/A ☐

Note:

The Department allows this to be excluded.

571. Expedited Filing Transmittal Document For Terrorism Risk Insurance Forms and Pricing

Note:

Please refer to Bulletin 2003-01

Yes ☐ No ☐ N/A ☐

572. Commercial Lines Filings Yes ☐ No ☐ N/A ☐

Note:

Please see Regulation 69-64.

Insurers establishing rates and rules for a product must still comply with the law. The fact that a filing may be "Exempt" simply means that it does not need to be filed; the laws still apply. That Department recommends that a filing be prepared and maintained by the insurer in a file that we refer to as a "Desk File." When conducting examinations, the Department may ask for such a file. Also, from time to time, the Department may survey insurers concerning rate levels. Filings made to the Department will be stamped "Exempt." This is to indicate that the Department did review the filing.

573. Bulletin 2006-04 Cancellation of Automobile Insurance Policies Within First 60 Days

Note:

Please refer to Bulletin 2006-04.

Please see FAQs.

Yes ☐ No ☐ N/A ☐

South Carolina

Code of Laws and Regulations References

SECTION 38-1-20. Definitions.

In this title unless the context otherwise requires:

- (1) "Accident and health insurance" means insurance of human beings against death or personal injury by accident, and every insurance of human beings against sickness, ailment, and any type of physical disability resulting from accident or disease, and prepaid dental service, but not including coverages required by the Workers' Compensation Law of this State.
- (2) "Accommodation bondsman" means as defined in Section 38-53-10.
- (3) "Adjuster" means an individual who determines the extent of insured losses and assists in settling or attempts to settle claims.
- (4) "Admitted assets" means assets of an insurer considered admitted under Section 38-11-100.
- (4.5) "Admitted insurer" means an insurer licensed to do business in this State.
- (5) "Alien insurer" means an insurer incorporated or organized under the laws of a country other than the United States of America, its states, commonwealths, territories, or insular possessions.
- (6) "Annuity" means every contract or agreement to make periodic payments, whether in fixed or variable dollar amounts, or both, at specified intervals.
- (6.5) "Appointment" means an individual designated by an official or authorized representative of an authorized insurer to act on its behalf as a producer.
- (7) "Bail bondsman" means as defined in Section 38-53-10.
- (8) "By" means on or before.
- (9) "Casualty insurance" means every insurance against legal liability of the insured for bodily injury to or death of other persons, including workers' compensation insurance, and for damages to or loss or destruction of the property of others; medical payments insurance when written in conjunction with any insurance covering liability for the deaths or bodily injuries of others; guaranteeing the fidelity of persons holding positions of public or private trust; loss of or damage to property caused by burglary, theft, larceny, robbery, fraud, or any unlawful taking or secretion of property owned by or entrusted to the insured; loss of or damage to property of the insured resulting from the explosion of or damage to any fired or unfired boiler or other pressure vessel, engine, turbine, compressor, pump, wheel, any apparatus generating, transmitting, or using electric power, and any machinery or equipment connected with any of the foregoing; loss resulting from nonpayment of debts owed to merchants or other persons extending credit.
- (10) "Certificate of insurance" means a memorandum copy, complete or abbreviated, of an insurance contract.
- (11) "Co-insurance" means a stipulation or requirement that the insured undertakes to be his own insurer to the extent that he fails to maintain insurance of a given percentage of the value of the property against loss or damage.
- (12) "Commission" means the part of the premium paid to the producer as compensation for his services.
- (13) "Company" includes any corporation, fraternal organization, burial association, other association, partnership, society, order, individual, or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and corporations.
- (14) "Department" means the Department of Insurance of South Carolina.
- (15) "Designee or deputy director" means the person or persons appointed by the director, serving at the will and pleasure of the director as his designee, to supervise and carry out the functions and duties of the department as provided by law. Any duty or function of the director to manage and supervise the Insurance Department may be conferred by the director's authority upon his designee or deputy director.

SECTION 38-1-20 continued

(16) “Director” means the person who is appointed by the Governor upon the advice and consent of the Senate and who is responsible for the operation and management of the Department of Insurance. The director has the authority to appoint or designate the person or persons who shall serve at the pleasure of the director to carry out the objectives or duties of the department as provided by law. Furthermore, the director may bestow upon his designee or deputy director any duty or function required of him by law to manage and supervise the Insurance Department.

(17) “Domestic insurer” means an insurer incorporated or organized under the laws of this State.

(17.5) “Eligible surplus lines insurer” means a non-admitted insurer with which a resident broker may place surplus lines insurance.

(18) “Foreign insurer” means an insurer incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.

(18.5) “Home state” means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(19) “Insurance” means a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies. The term “insurance” includes annuities.

(19.5) “Insurance agency” means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity in which more than one person has a financial interest.

(20) “Insurance producer” means a person who represents an insurance company and is required to be licensed in accordance with Section 38-43-10.

(21) “Insurance broker” means an individual licensed by the department to represent citizens of this State in placing their insurance. An insurance broker may place that insurance either with an eligible surplus lines insurer or with a licensed insurance producer in an insurance carrier licensed in this State.

(22) “Insurance company” means an “Insurer”.

(23) “Insurance premium service company” means a person engaged in the business of entering into insurance premium service agreements.

(24) “Insurance rate” means the price of insurance per unit of exposure.

(25) “Insurer” includes any corporation, fraternal organization, burial association, other association, partnership, society, order, individual, or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and corporations.

(26) Reserved.

(26.5) “License” means a document issued by the state’s Director of Insurance or his designee authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(27) “Life Insurance” means a contract of insurance upon the lives of human beings. The following contracts are deemed to be contracts of life insurance within the meaning of this definition:

(a) a contract providing acceleration of life benefits, beginning on the contract’s original effective date, in advance of the time they otherwise would be payable for long-term care as defined in Section 38-72-40;

(b) a contract providing acceleration of life benefits, beginning on the contract’s original effective date, in advance of the time they otherwise would be payable for a life-threatening illness or a terminal illness as specified in the contract.

(27.5) “Limited line credit insurance” includes credit life, credit disability, credit property, credit unemployment, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the director or his designee determines should be designated a form of limited line credit insurance.

SECTION 38-1-20 continued

(27.5 A) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates credit life or credit accident and health, credit property and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the director or his designee determines should be designated a form of limited line credit insurance.

(27.5 B) "Limited line insurance" includes crop hail, automobile, physical damage, mortgage guaranty or mortgage redemption or both, title, travel accident and baggage, Federal Crop Insurance Program, and any other form of insurance that the Director of Insurance deems necessary in order to ensure compliance with the reciprocal provisions of this chapter.

(27.5 C) "Limited line insurance producer" means a person authorized by the Director of Insurance or his designee to sell, solicit or negotiate, crop hail, automobile physical damage, mortgage guaranty or mortgage redemption or both, title, travel accident and baggage, Federal Crop Insurance Program, and any other form of insurance that the Director of Insurance deems necessary in order to ensure compliance with the reciprocal provisions of this chapter.

(28) "Marine insurance" means every insurance against loss or destruction of or damage to aircraft, vessels, or watercraft and their cargoes; insurance covering the risks or perils of navigation, transit, or transportation of all forms of property, including the liability of any carrier for hire for the loss of property of shippers delivered for transporting; marine builder's risks; bridges, tunnels, piers, wharves, docks and slips, dry docks, marine railways, and other aids to navigation and transportation, precious stones, precious metals, and jewelry, whether in the course of transportation or otherwise; coverage of personal property by all risk forms known as the "Personal Property Floater"; and coverage of mobile machinery and equipment.

(28.3) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(28.5) "Non-admitted insurer" means an insurer not licensed to do an insurance business in this State.

(29) "Person" means a corporation, an agency, partnership, association, voluntary organization, individual, or any other entity, organization, or aggregation of individuals.

(30) "Policy" means a contract of insurance.

(31) "Premium" means payment given in consideration of a contract of insurance.

(32) "Premium service agreement" means an agreement by which an insured or prospective insured promises to pay to an insurance premium service company the amount advanced or to be advanced under the agreement to an insurer or to an insurance producer or insurance broker in payment of premiums on an insurance contract together with a service charge as authorized by Chapter 39 of this title.

(32.5) "Probation" means allowing a licensed person the director has found to have violated South Carolina, any United States territory, or any other state's laws to continue selling, soliciting, or negotiating insurance on behalf of an insurer. No person convicted of a felony or those crimes listed in 18 U.S.C. 1033 or 1034 shall qualify for probation.

(33) "Professional bondsman" means as defined in Section 38-53-10.

(34) "Property insurance" means every insurance against direct or indirect loss of or damage to any property resulting from fire, smoke, weather disturbances, climatic conditions, earthquake, volcanic eruption, rising waters, insects, blight, animals, war damage, riot, civil commotion, destruction by order of civil authority to prevent spread of conflagration or for other reason, water damage, vandalism, glass breakage, explosion of any water systems, collision, theft of automobiles and personal effects therein (but no other forms of theft insurance), loss of or damage to domestic or wild animals, and any other perils to property which in the discretion of the director or his designee form proper subjects of property insurance, if not specified in items (1), (7), (9), (27), (28), (37), or (39) of this section.

SECTION 38-1-20 continued

(35) “Runner” means as defined in Section 38-53-10.

(35.3) “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(35.5) “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(36) “Surety bondsman” means as defined in Section 38-53-10.

(37) “Surety insurance” means becoming surety on, or guaranteeing the performance of, any lawful contract except an insurance contract; becoming surety on, or guaranteeing the performance of, any bonds and undertaking required or permitted in any judicial proceeding or required or permitted by any government or any agency or instrumentality of any government.

(37.5) “Surplus lines insurance” means insurance in this State of risks located or to be performed in this State, permitted to be placed through a resident broker with a non-admitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop-loss insurance coverage upon group life, accident, and health insurance or upon a self-insured’s life, accident, and health benefits program may be approved as surplus lines insurance.

(38) “Surplus to policyholders” is the excess of total admitted assets over the liabilities of an insurer which is the sum of all capital and surplus accounts minus any impairment thereof.

(38.5) “Terminate” means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer’s authority to transact insurance.

(39) “Title insurance” means insurance of the owners of real property and other persons lawfully interested therein against loss by reason of defective titles and undisclosed liens and encumbrances affecting the property.

(40) “Exempt commercial policies” means policies for commercial insureds as may be provided for in regulation issued by the director. Exempt commercial policies include all property and casualty coverages except for insurance related to credit transactions written through financial institutions.

(41) “Uniform Agency Application” means the current version of the National Association of Insurance Commissioners Uniform Business Entity Application for resident and nonresident business entities.

(42) “Uniform Application” means the current version of the National Association of Insurance Commissioners Uniform Application for resident and nonresident producer licensing.

(43) “Insurance-support organization” means a person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurer or agent for insurance transactions, including: (i) the furnishing of consumer reports or investigative consumer reports to an insurer or agent for use in connection with an insurance transaction; or (ii) the collection of personal information from insurers, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity. However, the following are not considered insurance-support organizations for purposes of this chapter: agents, governmental institutions, insurers, modeling organizations, consumer reporting agencies, medical care institutions, and medical professionals.

(44) “Modeling organization” means a corporation, an unincorporated association, a partnership, or an individual, whether located within or outside this State, that prepares catastrophe models that are used by insurers in rate filings. Catastrophe models are computer programs that estimate losses from potential upcoming disasters. Catastrophe modeling combines data on property exposures with information on hazards, such as storms or earthquakes, to generate estimates of potential losses.

SECTION 38-75-720. Definitions.

For the purposes of this article:

- (1) “Renewal” or “to renew” means the issuance of or the offer to issue by an insurer a policy succeeding a policy previously issued and delivered by the same insurer or an insurer within the same group of insurers, or the issuance of a certificate or notice extending the term of an existing policy for a specified period beyond its expiration date.
- (2) “Nonpayment of premium” means the failure or inability of the named insured to discharge when due any obligation in connection with the payment of premiums on a policy of insurance subject to this article, whether such payment is payable directly to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit.
- (3) “Cancellation” means termination of a policy at a date other than its expiration date.
- (4) “Expiration date” means the date upon which coverage under a policy ends. It also means, for a policy written for a term longer than one year or with no fixed expiration date, each annual anniversary date of such policy.
- (5) “Nonrenewal” means termination of a policy at its expiration date.

SECTION 38-75-730. Restrictions on cancellation of policies and renewals; notice of cancellation; exceptions.

(a) No insurance policy or renewal thereof may be cancelled by the insurer prior to the expiration of the term stated in the policy, except for one of the following reasons:

- (1) nonpayment of premium;
- (2) material misrepresentation of fact which, if known to the company, would have caused the company not to issue the policy;
- (3) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the policy;
- (4) substantial breaches of contractual duties, conditions, or warranties; or
- (5) loss of the insurer’s reinsurance covering all or a significant portion of the particular policy insured, or where continuation of the policy would imperil the insurer’s solvency or place that insurer in violation of the insurance laws of this State. Prior to cancellation for reasons permitted in this item (5), the insurer shall notify the director or his designee, in writing, at least sixty days prior to such cancellation and the director or his designee shall, within thirty days of such notification, approve or disapprove such action.

(b) Cancellation under item (1) of subsection (a) of this section is not effective unless written notice of cancellation has been delivered or mailed to the insured and the agent of record, if any, not less than ten days prior to the proposed effective date of cancellation. Cancellation under items (2) through (5) of subsection (a) of this section is not effective unless written notice of cancellation has been delivered or mailed to the insured and the agent of record, if any, not less than thirty days prior to the proposed effective date of cancellation. The notice must be given or mailed to the insured and the agent at their addresses shown in the policy or, if not reflected therein, at their last known addresses. Any notice of cancellation shall state the precise reason for cancellation. Proof of mailing is sufficient proof of notice.

(c) Subsections (a) and (b) of this section do not apply to any insurance policy which has been in effect for less than ninety days and is not a renewal of a previously existing policy. The policy may be cancelled for any reason by furnishing to the insured at least thirty days’ written notice of cancellation, except where the reason for cancellation is nonpayment of premium, in which case not less than ten days’ written notice must be furnished.

SECTION 38-75-740. Restrictions on nonrenewal of policies.

- (a) No insurance policy may be non-renewal by an insurer except in accordance with the provisions of this section, and any nonrenewal attempted which is not in compliance with this section is ineffective.
- (b) A policy written for a term of one year or less may be nonrenewed by the insurer at its expiration date by giving or mailing written notice of nonrenewal to the insured and the agent of record, if any, not less than thirty days prior to the expiration date of the policy.
- (c) Subject to subsection (c) of Section 38-75-760, a policy written for a term of more than one year or for an indefinite term may be nonrenewed by the insurer at its anniversary date by giving or mailing written notice of nonrenewal to the insured and the agent of record, if any, not less than thirty days prior to the anniversary date of the policy.
- (d) The notice required by this section must be given or mailed to the insured and the agent at their addresses shown in the policy or, if not reflected therein, at their last known addresses. Proof of mailing is sufficient proof of notice.
- (e) Any notice of nonrenewal shall state the precise reason for nonrenewal.

SECTION 38-75-750. Requirements for renewal of policies.

- (a) If an insurer intends to renew a policy, the insurer shall furnish renewal terms and a statement of the amount of premium or estimated premium due for the renewal policy period in the manner required by this section.
- (b) If the policy being renewed (hereinafter “original policy”) is written for a term of one year or less, the renewal terms and statement of premium or estimated premium due must be furnished to the insured not less than thirty days prior to the expiration date of the original policy.
- (c) If the original policy is written for a term of more than one year or for an indefinite term, the renewal terms and statement of premium or estimated premium due must be furnished to the insured not less than thirty days prior to the anniversary date of the original policy.
- (d) The insurer may satisfy its obligation to furnish renewal terms and statement of premium or estimated premium due by either of the following methods:
 - (1) mailing or delivering renewal terms and statement to the insured at his address shown in the policy or, if not reflected therein, at his last known address, not less than thirty days prior to expiration or anniversary; or
 - (2) mailing or delivering renewal terms and statement to the agent of record, if any, not less than forty-five days prior to expiration or anniversary, along with instructions that the agent furnish the renewal terms and statement to the insured not less than thirty days prior to expiration or anniversary.
- (e) If the insurer fails to furnish the renewal terms and statement of premium or estimated premium due in the manner required by this section, the insured may elect to cancel the renewal policy within the thirty-day period following receipt of the renewal terms and statement of premium or estimated premium due. Earned premium for any period of coverage must be calculated pro rata based upon the premium applicable to the original policy and not the premium applicable to the renewal policy.

SECTION 38-75-760. Unlawful practices involving cancellation, nonrenewal, or renewal of policies.

- (a) It is unlawful for any insurer to cancel, nonrenew, or renew a policy of insurance except in compliance with the requirements of this article.
- (b) Midterm cancellation of an entire block, line, or class of business is presumed to be unfair, inequitable, and contrary to the public interest and is unlawful.
- (c) If a policy has been issued for a term longer than one year and for additional premium consideration renewal of the policy or an annual premium has been guaranteed, it is unlawful for the insurer to refuse to renew the policy or to increase the annual premium during the term of that policy.

SECTION 38-73-330. Making of rates.

Rates must be made in accordance with the following provisions:

- (1) Manual, minimum, and class rates, rating schedules, or rating plans must be made and adopted, except in the case of specific inland marine rates on risks specially rated.
- (2) Rates may not be excessive, inadequate, or unfairly discriminatory. Due consideration must be given for installation and maintenance of nationally recognized hazard reducing systems.
- (3) Due consideration must be given to past and prospective loss experience within and outside this State, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses, both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State, and in the case of fire insurance rates consideration must be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which the experience is available.

Except to the extent necessary to meet the provisions of item (2) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited. Rates made in accordance with this section may be used subject to the provisions of this chapter.

SECTION 38-73-530. Competitive rate on specific risk.

The director or his designee may, upon the filing with him of an affidavit setting forth information required by him, grant permission to a licensed insurer to make a rate competing with any nonlicensed insurer in any specific risk.

SECTION 38-73-915. Authority granted director or designee; effect of legislation and court decisions.

(A) The director or his designee in reviewing rate filings may take into consideration recently passed legislation or recently rendered court decisions which will have an effect on insurance rates. The director or his designee may use such information to reduce or increase the rate level of the insurer or the rating organization.

(B) The director or his designee may order an insurer or rating organization to reduce or increase its current rate levels as a result of recently passed legislation or recently rendered court decisions. The director or his designee shall give the insurer or rating organization and the Consumer Advocate thirty days notice of his intention to order a reduction or increase in an insurer's or rating organization's rate level. The insurer or rating organization or the Consumer Advocate may request a hearing before the director or his designee under the Administrative Procedures Act to contest the proposed order. The Consumer Advocate may participate as a party in any such hearings.

SECTION 38-73-940. Information in support of filing.

A filing and any supporting information are open to public inspection after the filing becomes effective. The information furnished in support of a filing under Sections 38-73-340 or 38-73-520 may include:

- (1) the experience or judgment of the insurer or rating organization making the filing;
- (2) its interpretation of any statistical data it relies upon;
- (3) the experience of other insurers or rating organizations; and
- (4) any other relevant factors.

A filing and any supporting information are open to public inspection after the filing becomes effective.

SECTION 38-75-40. Validity of additional or coinsurance clause.

No insurer or agency licensed to do business in this State may issue any policy or contract of insurance covering property in this State which contains any clause or provision requiring the insured to take or maintain a larger amount of insurance than that expressed in the policy or in any way provides that the insured is liable as a coinsurer with the insurer issuing the policy for any part of the loss or damage to the property described in the policy. Any such clause or provision is void. However, such a clause or provision may be used if there is stamped on the filing face of the policy or printed in bold type at the top of the clause the words "coinsurance clause". If there is a difference in the rate for insurance with and without the coinsurance clause, the rates for each must be furnished the insured upon request.

SECTION 38-75-50. Clause limiting or invalidating policies if property is encumbered is void.

Any clause in any policy of insurance purporting or undertaking to limit or invalidate the force of the policy in case of encumbrance by real estate mortgage of the property insured by the policy is void.

SECTION 38-75-60. Cause of action by insurer against tenant.

Notwithstanding any other provision of law, no insurer has a cause of action against a tenant who causes damage to real or personal property leased by the landlord to the tenant when the insurer is liable to the landlord for the damages under an insurance contract between the landlord and the insurer, unless the damage is caused by the tenant intentionally or in reckless disregard of the rights of others.

SECTION 38-75-310. Definitions.

In this article, unless the context otherwise requires:

(1) "Essential property insurance" means insurance against direct loss to property as defined and limited in the wind and hail insurance policy and forms approved by the director or his designee; and after January 1, 1995, at the request of the insured, coverage for:

- (a) actual loss of business income; or
- (b) additional living expense; or
- (c) fair rental value loss.

Prior to November 1, 1994, the South Carolina Wind and Hail Underwriting Association must file with the Department for approval additional policy forms defining the terms of and providing coverage for actual loss of business income, additional living expense and fair rental value loss.

(2) "Association" means the South Carolina Wind and Hail Underwriting Association established pursuant to the provisions of this article.

(3) "Plan of operation" means the plan of operation of the association approved or promulgated by the department pursuant to the provisions of this article.

(4) "Insurable property" means immovable property at fixed locations in coastal areas of the State as that term is hereinafter defined, or tangible personal property located therein, which property is determined by the association to be in an insurable condition as determined by reasonable underwriting standards, but not to include farm or manufacturing property, or motor vehicles which are eligible to be licensed for highway use. Any structure commenced on or after September 15, 1971, not built in substantial compliance with the Southern Standard Building Code, including the design-wind requirements therein, is not an insurable risk under the terms of this article. Any structure commenced on or after September 15, 1971, shall comply with any construction and zoning requirements affecting the structure, promulgated or adopted pursuant to the requirements of the Federal Flood Insurance Program.

(5) "Coastal area" means:

- (a) all areas in Beaufort County and Colleton County which are east of the west bank of the intracoastal waterway;
- (b) the following areas in Georgetown County: all areas between the Harrell Siau Bridge and Murrells Inlet which are east of a line paralleling and lying one hundred fifty feet east of U.S. Highway No. 17 Business, all areas in Murrells Inlet which are east of U.S. Highway No. 17 Business, and Cedar Island, North Island, and South Island;
- (c) all areas in Horry County east of a line paralleling and lying one hundred fifty feet east of U. S. Highway No. 17 Business;
- (d) the following areas in Charleston County: Edingsville Beach, Kiawah Island, Botany Bay Island, Folly Island, Seabrook Island, Morris Island, and all areas north of the city of Charleston which are east of the west bank of the intracoastal waterway.
- (6) "Net direct premiums" means gross direct premiums excluding reinsurance assumed and ceded written on property other than farm or manufacturing in this State for fire and extended coverage insurance, including the fire and extended coverage components of homeowners policy and commercial multiple peril package policies, less return premiums upon canceled contracts, dividends paid or credited to policyholders, or the unused or unabsorbed portion of premium deposits.
- (7) "Seacoast area" means all areas within Horry, Georgetown, Berkeley, Charleston, Dorchester, Colleton, Beaufort, and Jasper Counties.

SECTION 38-75-10. Fire insurance policy shall indicate allocation of premium and location of property.

Every fire insurer doing business in this State shall cause to be plainly written or printed on the face of each fire insurance policy written and issued by it the name of the county entitled to the allocation of the premiums on the business and the location of the property so insured. This information must be incorporated in all daily reports or other evidence furnished by the agent of coverage assumed.

SECTION 38-75-20. Maximum amounts of fire insurance policies; stated values; contributions by co-insurers.

No insurer doing business in this State may issue a fire insurance policy for more than the value stated in the policy or the value of the property to be insured. The amount of insurance must be fixed by the insurer and insured at or before the time of issuing the policy. In case of total loss by fire the insured is entitled to recover the full amount of insurance. In case of a partial loss by fire the insured is entitled to recover the actual amount of the loss but in no event more than the amount of the insurance stated in the contract. If two or more policies are written upon the same property, they are considered to be contributive insurance, and, if the aggregate sum of all such insurance exceeds the insurable value of the property, as agreed by the insurer and the insured, each insurer, in the event of a total or partial loss, is liable for its pro rata share of insurance. This section does not apply to insurance on chattels or personal property.

SECTION 38-75-30. Maximum amounts of fire insurance policies; exceptions for manufacturing property and replacement riders.

Notwithstanding Section 38-75-20, insurers may, at the request of owners of property used principally for manufacturing purposes, including places of residence for occupancy by employees, issue policies wholly exempt from Section 38-75-20. Riders or endorsements may, in consideration of an adequate premium or premium deposit, be attached to policies insuring property, indemnifying the insured for the difference between the actual value stated in the policy and the amount actually expended to repair, rebuild, or replace with new materials of like size, kind, and quality the insured property that has been damaged or destroyed by fire or other perils insured against.

SECTION 38-75-790. Nonrenewal of homeowners insurance.

No insurer may nonrenew a policy of homeowners insurance because the insured has filed a claim with that insurer for damages resulting from an act of God.

SECTION 38-73-1095. Essential property insurance; rating plan factors.

(A) Any private insurer licensed to underwrite “essential property insurance” as defined by Section 38-75-310(1), notwithstanding any limitations included within this title, may file and use any rates for the coverages detailed within Section 38-75-310(1) which result in insurance premium rates of ninety percent, or less, of the insurance premium rates then approved for the South Carolina Wind and Hail Underwriting Association for use within the coastal area of South Carolina as defined by Section 38-75-310(5). Filings for these insurance premium rates must be made upon forms prescribed by the director or his designee and must apply only to essential property insurance premium rates for the coastal area. Within thirty days after the filing of the rates, the director or his designee must notify the insurer or rating organization filing the rates of his approval or his disapproval of those rates. If the rates are disapproved, then the director or his designee must notify the insurer or the rating organization of the specific reason for disapproval. The director or his designee may extend for up to an additional thirty days the period within which he must approve or disapprove the rates. Any rates received, which are neither approved nor disapproved by the director, must be deemed approved at the expiration of the thirty-day period or, if that period has been extended, at the expiration of the extended period. However, no insurer or rating organization may use rates considered approved under the provisions of this section unless and until the insurer or rating organization has filed a written notice of its intent to use the rates. The notice must be filed with the director or his designee at least ten days before the insurer’s or rating organization’s use of the deemed rates.

(B) In considering any rate filing for insurance premium rates for essential property insurance in the coastal area or in the seacoast area, the director or his designee, in addition to other factors considered under this title, may consider past and prospective expenses and recoveries associated with catastrophe reinsurance and past and prospective loss experience including windstorm catastrophe models and simulations.

(C) Rating plans for essential property insurance in the coastal area or in the seacoast area, may include discounts and credits or surcharges and debits calculated upon the following rating factors:

- (1) use of storm shutters;
- (2) use of roof tie downs;
- (3) construction standards;
- (4) building codes;
- (5) distance from water;
- (6) elevation;
- (7) flood insurance;
- (8) policy deductibles;
- (9) other applicable factors requested by the insurer or rating organization or selected by order of the director involving the risk or hazard.

(D) This section does not preclude any insurer from using consent-to-rate pursuant to Section 38-73-1060 for any essential property insurance risk in the coastal area or the seacoast area of this State.

SECTION 38-75-210. Policies may not exceed three years; refund of unearned premiums on cancellation of policies.

Notwithstanding any other provision of law:

- (1) No policy of hazard insurance issued or delivered to cover a mobile home risk situate in South Carolina may be written to provide for a policy period in excess of three years.
- (2) Every such policy, and the manual of rules and rates of every insurer issuing such policies in this State, shall provide that all premiums held by the insurer in respect to that part of the policy term subsequent to the anniversary date of the then current policy year are considered unearned and must be refunded in full if the policy is cancelled, without respect to whether cancellation is effected by the insured or insurer. In the event of cancellation during the first year of the policy term, refund of premium for that portion of the policy term must be on a pro rata basis if cancellation is effected by the insurer or on the short rate basis if cancellation is effected by the insured. In the event of cancellation during the second year of the policy term, refund of that portion of the unearned premium attributable to the second year must be on a pro rata basis if cancellation is effected by the insurer or on the short rate basis if cancellation is effected by the insured, subject, however, to the provision that the portion of the unearned premium attributable to the third year is considered entirely unearned and must be returned in full regardless of the party responsible for cancellation. In the event of cancellation during the third year of the policy term, refund of that portion of the unearned premium attributable to the third year must be on a pro rata basis if cancellation is effected by the insured.
- (3) Upon the cancellation of any such policy, without respect to the party effecting the cancellation, any unearned premium must be returned to the insured or to the mortgagee. If returned to the mortgagee the unearned premium must be applied to any payment then due or to the next payment or payments to become due. No agreement may be made requiring or permitting the mortgagee to apply the returned premiums to the final payment or payments on the indebtedness.

SECTION 38-75-220. Restrictions on amount of insurance that may be written.

No insurer transacting a mobile home insurance business in this State and writing hazard insurance covering loss from physical damage to the mobile homes may issue a policy for more than the value stated in the policy or the value of the property to be insured. The amount of insurance must be fixed by the insurer and insured at or before the time of issuing the policy. In case of total loss as a result of a hazard insured against, the insured is entitled to recover the full amount of insurance. In case of partial loss the insured is entitled to recover the actual amount of loss but in no event more than the amount of insurance stated in the contract. If two or more such policies are written upon the same property and covering the same interests, they are considered to be contributive insurance, and, if the aggregate sum of all such insurance exceeds the insurable value of the property, as agreed by the insured and insurer, each insurer, in the event of a total or partial loss, is liable for its pro rata share of insurance. This section does not preclude an agreement by an insurer with its insured to effect replacement in the event of total loss of the mobile home as a result of a hazard insured against if the insured has maintained insurance of a given percentage in relationship to the market value of the mobile home.

SECTION 38-75-230. Information required on contracts for purchase of mobile homes.

Any contract to purchase a mobile home shall on its face:

- (1) clearly include the provisions of Section 38-75-210, and
- (2) clearly inform the purchaser that it is a violation of the law of this State for the seller of a mobile home or for any person lending money upon the security thereof to require or to attempt to require that hazard insurance be purchased from any particular insurer or agent and shall include the address of the office of the department of the Insurance with instructions to report any violation or attempted violation to his office.

SECTION 38-73-430. Making of rates.

Rates must be made in accordance with the following provisions:

- (1) Due consideration must be given to past and prospective loss experience within and outside this State, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses, both countrywide and those specially applicable to this State, and to all other relevant factors within and outside of this State.
- (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of the insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
- (3) Risks may be grouped by classifications for the establishment of rates and minimum premiums, and classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring any variations in hazards or expense provisions, or both, that can be demonstrated to have a probable effect upon losses or expenses.
- (4) Rates may not be excessive, inadequate, or unfairly discriminatory.
- (5) Due consideration must be given to assessments for purposes such as the guaranty fund, wind and hail joint underwriting association, and similar mechanisms.

Except to the extent necessary to meet the provisions of item (4) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

SECTION 38-73-220. Approval process for rate level changes.

(A) Except as provided in subsection (B), overall average rate-level increases or decreases, for all coverages combined, of seven percent above or below the insurer's rates then in effect may take effect without prior approval on a file and use basis with respect to rates for fire, allied lines, and homeowner's insurance policies. The seven percent cap does not apply on an individual insured basis.

(B) Notwithstanding another provision of this chapter, for any policies governed by this section, filings that produce rate-level changes within the limitation specified in subsection (A) become effective without prior approval. No more than two rate increases within the limitation specified in subsection (A) may be implemented during any twelve-month period and the second rate-increase filing in the twelve-month period is subject to prior approval.

(C) A rate increase or decrease falling within the limitation in subsection (B) may become effective not less than thirty days after the date of the filing with the director. The filing is considered to meet the requirements of this chapter. If the director finds that this filing is not in compliance with this chapter, he shall issue a written order specifying in detail the provisions with which the insurer has not complied and state a reasonable period in which the filing is considered no longer effective. An order by the director pursuant to this section that is issued more than thirty days from the date on which the director received the rate filing is on a prospective basis only and does not affect any contract issued or made before the effective date of the order.

(D) Rate filings falling outside the limitation specified in subsection (B) are subject to the prior approval of the director. The director shall approve or disapprove these filings in accordance with the provisions of Sections 38-73-960 and 38-73-990.

SECTION 38-73-260. Approval process for rate level changes; Consumer Advocate review of certain filings.

(A) Except as provided in subsection (B), overall average rate-level increases or decreases, for all coverages combined, of seven percent above or below the insurer's rates then in effect may take effect without prior approval on a file and use basis with respect to rates for fire, allied lines, and homeowner's insurance policies. The seven percent cap does not apply on an individual insured basis.

(B) Notwithstanding another provision of this chapter, for any policies governed by this section, filings that produce rate-level changes within the limitation specified in subsection (A) become effective without prior approval. No more than two rate increases within the limitation specified in subsection (A) may be implemented during a twelve-month period and the second rate increase filing in the twelve-month period is subject to prior approval.

(C) A rate increase or decrease falling within the limitation in subsection (B) may become effective not less than thirty days after the date of the filing with the director. The filing is considered to meet the requirements of this chapter. If the director finds that this filing is not in compliance with this chapter, he shall issue a written order specifying in detail the provisions with which the insurer has not complied and state a reasonable period in which the filing is considered no longer effective. An order by the director pursuant to this section that is issued more than thirty days from the date on which the director received the rate filing is on a prospective basis only and does not affect a contract issued or made before the effective date of the order.

(D) Rate filings falling outside the limitation specified in subsection (B) are subject to the prior approval of the director or his designee. The director or his designee shall approve or disapprove these filings pursuant to the provisions of Sections 38-73-960 and 38-73-990.

(E) With respect to applications for rate increases for fire, allied lines, and homeowner's insurance that exceed the seven percent cap as provided in subsection (A) and if an applicant insurer had earned premiums in this State in the previous calendar year of more than ten million dollars for the line or type of insurance for which the rate increase is sought, the director or his designee shall provide a copy of the filing to the Consumer Advocate or, in the alternative, shall direct the insurer to provide a copy simultaneously to the Consumer Advocate. Within ten business days of the receipt of the filing, the Consumer Advocate may request from the insurer additional information. A copy of the request must be served on the director or his designee. Within ten business days of the receipt of the information sought, the Consumer Advocate shall inform the insurer and the director if, in his opinion, the filing is not in compliance with this chapter and specify in detail the reason for his opinion. If the filing is accepted by the director and becomes effective, the Consumer Advocate, upon good cause shown, may request a hearing before the Administrative Law Court. An order of the administrative law judge issued pursuant to the provisions of this section is on a prospective basis only and does not affect any contract issued or made before the effective date of the order.

SECTION 38-73-340. Rate filings required.

Every insurer shall file with the department, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans and except as to exempt commercial policies, every manual, minimum, or class rate, rating schedule or rating plan, and every other rating rule and every modification of any of these which it proposes to use. The filing exemption shall not apply to loss cost filings by advisory or rating organizations. Every filing shall state the proposed effective date and shall indicate the character and extent of coverage contemplated. Specific inland marine rates on risks specially rated, made by a rating organization, must be filed with the department.

SECTION 38-73-520. Rate filings required.

Every insurer shall file with the department, except as to exempt commercial policies, every manual of classifications, rules, and rates, every rating plan, and every modification of any of these which it proposes to use. The filing exemption shall not apply to loss cost filings by advisory or rating organizations. Every filing shall state the proposed effective date and shall indicate the character and extent of the coverage contemplated.

SECTION 38-73-920. No insurance may be issued except on rates filed.

An insurer may not make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with Section 38-73-1060. Notwithstanding Section 38-73-10, item (2) of Section 38-73-330, and item (4) of Section 38-73-430, filings for property and casualty rate increases may not be approved for any insurer or rating organization for any line, sub line, or otherwise identifiable property and casualty insurance coverage for which a rate increase has previously been granted within the immediately preceding twelve months. However, if satisfactory evidence is presented to the director or his designee by an insurer or rating organization that the continued use of the previously approved rates for the line, sub line, or otherwise identifiable property and casualty insurance coverage may result in the insolvency of an insurer, more frequent rate increases may be approved. Rate changes proposed where the sole factor for the change is the impact of a revised assessment does not constitute a rate increase for purposes of this section. No rate increase based upon an assessment may become effective unless the assessment has been paid. This section does not apply to contracts or policies for inland marine risks as to which filings are not required.

However, a private insurer licensed to underwrite essential property insurance as defined by Section 38-75-310(1), notwithstanding any limitations included within this title, may file and use, pursuant to the provisions of Section 38-73-1095, any rates which result in insurance premium rates of ninety percent, or less, of the insurance premium rates then approved for the South Carolina Wind and Hail Underwriting Association which result in an insurance premium increase for any policyholder situated within a coastal area of South Carolina as defined by Section 38-75-310(5) not more than once in any six-month period.

SECTION 38-73-950. Additional information may be required.

When a filing is not accompanied by the information upon which the insurer supports the filing and the director or his designee does not have sufficient information to determine whether the filing meets the requirements of this chapter, he shall require the insurer to furnish the information upon which it supports the filing, and in this event the waiting period commences as of the date the information is furnished.

SECTION 38-73-960. Effective date of filing.

The director or his designee shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter. Subject to the exceptions specified in Sections 38-73-970 and 38-73-980, each filing must be on file for a waiting period of sixty days before it becomes effective. This period may be extended by the director or his designee for an additional period not to exceed sixty days if he gives written notice within the waiting period to the insurer or rating organization which made the filing that he needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the director or his designee may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing meets the requirements of this chapter unless disapproved by the director or his designee within the waiting period or any extension thereof.

SECTION 38-73-980. Effective date for certain surety or guaranty bonds.

Any special filing with respect to a surety or guaranty bond required by law, or by court or executive order, or by order or regulation of a public body, not covered by a previous filing, becomes effective when filed and is considered to meet the requirements of this chapter until the time the director or his designee reviews the filing and so long thereafter as the filing remains in effect.

SECTION 38-75-1140. Evaluation of natural hazard catastrophe models; requirements for modeling organizations.

(A) In recognition of the use of natural hazard catastrophe computer models and other recently developed or improved actuarial methodologies for projecting natural hazard losses, the director or his designee may make or cause to be made an evaluation of any natural hazard catastrophe model used in property rate filings in this State. Natural hazard catastrophe models are computer programs that estimate losses from potential natural hazard disasters, combining data on property exposures with information on natural hazards, such as storms or earthquakes, to generate estimates of potential losses.

(B) If required to do so by the director, a modeling organization that prepares catastrophe models used by insurers in rate filings in this State shall submit an initial report to the director or his designee consisting of but not limited to:

- (1) a statement of its qualification as a modeling organization;
- (2) an outline of the background and experience of the staff of the modeling organization engaged in the development and preparation of the catastrophe models used by insurers in rate filings; and
- (3) one or more statements describing and attesting to the validity of the model for use in predicting losses associated with natural hazard catastrophes in this State. A separate statement must be made by an individual possessing expertise appropriate to the hazard being modeled in fields such as meteorology, engineering, building codes, geology, and actuarial science as they apply to natural hazard catastrophes faced by this State.

(C) The modeling organization shall submit a supplemental report to the director or his designee following any substantially material revision of the model if the revision is used by insurers in determining rates for this State. The supplemental report must specify the changes made to the catastrophe model and contain one or more statements by experts attesting to the continuing validity of the model for use in predicting losses associated with natural hazard catastrophes in this State.

(D) If the director or his designee determines the expert statements provided to be insufficient, he may reject the report.

(E) In conducting his evaluation of a model, the director or his designee may rely on the report of an official of another state who has made such an evaluation pursuant to the laws of that state.

(F) Proprietary or trade secret information that is submitted in a report, or is obtained, developed, or compiled in the course of any evaluation must be kept confidential by the director.

SECTION 38-75-1150. Separate premium for fire and allied lines coverage.

An insurer shall provide a separate premium for fire coverage and for allied lines coverage on a policy that includes fire and allied lines coverages. This includes a homeowner's and a businessowner's policy.

SECTION 38-75-1160. Notice requirement prior to cancellation or refusal to renew; exceptions.

(A)(1) A cancellation or refusal to renew by an insurer of a policy of insurance covered in this article is not effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. This notice must:

- (a) be approved as to form by the director or his designee before use;

- (b) state the date not less than thirty days after the date of the mailing or delivering on which the cancellation or refusal to renew becomes effective;
 - (c) state the specific reason of the insurer for cancellation or refusal to renew and provide for the notification required by Section 38-75-1180(B);
 - (d) inform the insured of his right to request in writing within fifteen days of the receipt of notice that the director review the action of the insurer. The notice of cancellation or refusal to renew must contain the following statement in bold print to inform the insured of this right:
“IMPORTANT NOTICE: Within fifteen days of receiving this notice, you or your attorney may request in writing that the director review this action to determine whether the insurer has complied with South Carolina laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the director may require that your policy be reinstated. However, the director is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the director does not have the authority to overturn this action.”;
 - (e) inform the insured of the possible availability of other insurance which may be obtained through his agent, or through another insurer; and
 - (f) state that the Department of Insurance has available a buyer’s guide regarding property insurance shopping and availability, and provide applicable mailing addresses and telephone numbers, including a toll-free number, if available, for contacting the Department of Insurance.
- (2) Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation or refusal to renew, any additional disclosure statements required by state or federal laws, or any additional information relating to the availability of other insurance.
- (B) Subsection (A) does not apply if the:
- (1) insurer has manifested to the insured its willingness to renew by actually issuing or offering to the insured to issue a renewal policy, certificate, or other evidence of renewal, or has manifested this intention to the insured by another means;
 - (2) named insured has demonstrated by some overt action to the insurer or its agent that he expressly intends that the policy be canceled or that it not be renewed.

SECTION 38-75-1170. Access to recorded personal information; disclosure requirements and limitations.

(A) If an individual, after proper identification, submits a written request to an insurance-support organization for access to recorded personal information about the individual that reasonably is described by the individual and reasonably able to be located and retrieved by the insurance-support organization, the insurance-support organization, within thirty business days from the date the request is received shall:

- (1) inform the individual of the nature and substance of the recorded personal information in writing, by telephone, or by other oral communication, whichever the insurance-support organization prefers;
- (2) permit the individual to see and obtain a copy of the recorded personal information pertaining to him or to obtain a copy of the recorded personal information by mail, whichever the individual prefers, unless the recorded personal information is in coded form, in which case an accurate translation in plain language must be provided in writing;
- (3) disclose to the individual the identity, if recorded, of those persons to whom the insurance-support organization has disclosed the personal information within two years before the request, and if the identity is not recorded, the names of those insurance-support organizations or other persons to whom the information is disclosed in the regular course of business; and
- (4) provide the individual with a summary of the procedures by which he may request correction, amendment, or deletion of recorded personal information.

(B) Personal information provided pursuant to subsection (A) must identify the source of the information if it is an institutional source.

(C) Medical record information supplied by a medical care institution or medical professional and requested pursuant to the provisions of subsection (A), together with the identity of the medical professional or medical care institution that provided the information, must be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurer, agent, or insurance-support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurer, agent, or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(D) Except for personal information provided by this section, an insurer, agent, or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(E) The obligations imposed by this section upon an insurer or agent may be satisfied by another insurer or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request provided by subsection (A), an insurer, agent, or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

(F) The rights granted to individuals in this section must extend to all natural persons to the extent information about them is collected and maintained by an insurer, agent, or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection do not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(G) For purposes of this section, "insurance-support organization" does not include "consumer reporting agency".

SECTION 38-75-1180. Notice of reasons for cancellation or nonrenewal.

(A) If there is a cancellation or nonrenewal of an insurance policy covered pursuant to the provisions of this article, the insurer or agent responsible for the cancellation or nonrenewal shall give a written notice in a form approved by the director that:

- (1) either provides the applicant, policyholder, or individual proposed for coverage with the specific reason or reasons for the cancellation or nonrenewal in writing or advises the person that upon written request he may receive the specific reason or reasons in writing; and
- (2) provides the applicant, policyholder, or individual proposed for coverage with a summary of the rights provided by subsection (B) and Section 38-75-1160.

(B) Upon receipt of a written request within ninety business days from the date of the mailing of notice or other communication of a cancellation or nonrenewal to an applicant, policyholder, or individual proposed for coverage, the insurer or agent shall furnish to the person within twenty-one business days from the date of receipt of the written request:

- (1) the specific reason or reasons for the cancellation or nonrenewal in writing, if that information was not furnished initially in writing pursuant to subsection (A)(1);
- (2) the specific items of personal and privileged information that support those reasons; however:
 - (a) the insurer or agent is not required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the director, that the applicant, policyholder, or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation, or material nondisclosure; and

(b) specific items of medical record information supplied by a medical care institution or medical professional must be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurer or agent prefers; and

(3) the names and addresses of the institutional sources that supplied the specific items of information given pursuant to subsection (B)(2). However, the identity of any medical professional or medical care institution must be disclosed either directly to the individual or to the designated medical professional, whichever the insurer or agent prefers.

(C) The obligations imposed by this section upon an insurer or agent may be satisfied by another insurer or agent authorized to act on its behalf. However, the insurer or agent making the cancellation or nonrenewal remains responsible for compliance with the obligations imposed by this section.

(D) If a cancellation or nonrenewal results only from an insured's oral request or inquiry, the explanation of reasons and summary of rights required by subsection (A) may be given orally.

SECTION 38-75-1200. Notice regarding cancellation in application for original issuance of policy.

(A) An application for the original issuance of a policy of insurance covered in the article must have the following statement printed on or attached to the first page of the application form, in boldface type:

“THE INSURER CAN CANCEL THIS POLICY FOR WHICH YOU ARE APPLYING WITHOUT CAUSE DURING THE FIRST 90 DAYS. THAT IS THE INSURER’S CHOICE. AFTER THE FIRST 90 DAYS, THE INSURER CAN ONLY CANCEL THIS POLICY FOR REASONS STATED IN THE POLICY.”

(B) An application for the original issuance of a policy of insurance covered in this article that requires the insured to disclose information as to any previous cancellation or refusal to renew also must permit the insured to offer or provide a full explanation of the reason for the cancellation or refusal to renew.

(C) The notice required by this section must accompany the initial declarations page if the applicant is not provided a written copy at the time of the application and the coverage has been bound by the insurer.

(D) The insurer may cancel without cause at any time in the first ninety days during which the policy is in effect.

(E) This section does not apply to the renewal of any policy of insurance.

SECTION 38-75-1210. Prohibited grounds for refusal to issue policy or determination of premiums; penalties.

(A)(1) An insurer or agent may not refuse to issue an insurance policy as defined in this article because of any one or more of the following factors:

- (a) age;
- (b) sex;
- (c) race;
- (d) color;
- (e) creed;
- (f) national origin;
- (g) ancestry;
- (h) marital status; or
- (i) income level.

(2) An insurer or agent may not refuse to issue an insurance policy defined in this article only because of any one of the following factors:

- (a) the previous refusal of property insurance by another insurer; or
- (b) lawful occupation, including the military service, of the person seeking the coverage.

(3) Nothing in this section prohibits an insurer from limiting the issuance of insurance policies covered in this article only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect.

(4) Nothing in this section prohibits an insurer from setting rates in accordance with relevant actuarial data.

(5) Nothing in this section prohibits an insurer from refusing to issue policies of insurance due to the catastrophe exposure of wind.

(B)(1) In determining the premium rates to be charged for an insurance policy covered in this article, it is unlawful to consider:

- (a) race;
- (b) color;
- (c) creed;
- (d) religion;
- (e) sex;
- (f) national origin;
- (g) ancestry;
- (h) economic status; or
- (i) income level.

(2) An insurer, agent, or a broker may not refuse to write an insurance policy covered in this article based upon:

- (a) age;
- (b) sex;
- (c) race;
- (d) color;
- (e) creed;
- (f) religion;
- (g) national origin;
- (h) ancestry;
- (i) economic status; or
- (j) income level.

(3) However, nothing in this subsection may preclude the use of a territorial plan approved by the director.

(C) An insurer or agent who violates this section is subject to the penalties as provided in Section 38-2-10. If the director of the Department of Insurance or his designee finds that an insurer or agent is participating in a pattern of unfair discrimination, the director or his designee may impose a fine of up to two hundred thousand dollars. However, if the unfair discrimination is required by an insurer, only the insurer is subject to the penalty as long as the agent of the insurer has reported the pattern of unfair discrimination to the department. The director or his designee at any time may examine an insurer, agent, or a broker to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.

SECTION 38-75-1220. Prohibited grounds for refusal to renew policy; immunity from liability; review by director of cancellation or refusal; penalties.

(A)(1) An insurer may not refuse to renew an insurance policy covered in this article because of any one or more of the following factors:

- (a) age;
- (b) sex;

- (c) race;
- (d) color;
- (e) creed;
- (f) national origin;
- (g) ancestry;
- (h) marital status; or
- (i) income level.

(2) An insurer may not refuse to renew an insurance policy covered in this article only because of any one of the following factors:

- (a) lawful occupation, including the military service;
- (b) lack of supporting business or lack of the potential for acquiring the business;
- (c) one or more claims that occurred more than thirty-six months immediately preceding the upcoming anniversary date; or
- (d) inquiries concerning coverage submitted to the insurer where no notice of claim was made.

(3) Nothing contained in subsection (A)(1)(e), (f), and (g) of this subsection prohibits an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits an insurer from setting rates in accordance with relevant actuarial data except that no insurer may set rates based in whole or in part on race, color, creed, religion, sex, national origin, ancestry, economic status, or income level. However, nothing in this subsection may preclude the use of a territorial plan approved by the director.

(4) Nothing in this section prohibits an insurer from refusing to renew policies of insurance due to the catastrophe exposure of wind.

(B) There is no liability on the part of and no cause of action of any nature shall arise against the director or his designees; an insurer, its authorized representatives, its agents, or its employees; or a person furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew. For the purposes of this section, an insurer is not required to furnish a notice of cancellation or refusal to renew to anyone other than the named insured, a person designated by the named insured, or any other person to whom the notice is required to be given by the terms of the policy and the director.

(C) Within fifteen days of receipt of the notice of cancellation or refusal to renew, an insured or his attorney is entitled to request in writing to the director that he review the action of the insurer in canceling or refusing to renew the policy of the insured. Upon receipt of the request, the director promptly shall begin a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section. If the director finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section, he immediately shall notify the insurer, the insured, and any other person to whom the notice was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the director to substitute his judgment as to underwriting for that of the insurer.

(D) Each insurer shall maintain for at least three years, records of cancellation and refusal to renew and copies of each notice or statement referred to in Section 38-75-1160 that it sends to any of its insureds.

(E) The provisions of this section do not apply to an insurer that limits the issuance of insurance policies covered in this article to one class or group of persons engaged in any one particular profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy of insurance covered in this article if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. An insurer is not required to renew a policy if the insured becomes a nonresident of South Carolina.

(F) An insurer who violates this section is subject to the penalties as provided in Section 38-2-10. If the director of the Department of Insurance or his designee finds that an insurer, agent, or a broker is participating in a pattern of unfair discrimination, the director or his designee may impose a fine of up to two hundred thousand dollars. However, if the unfair discrimination is required by an insurer, only the insurer is subject to the penalty as long as the agent of the insurer has reported the pattern of unfair discrimination to the department. The director or his designee at any time may examine an insurer, agent, or a broker to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.

SECTION 38-75-1230. Wind and hail exclusions on fire, allied lines, or homeowner's policy.

An insurer may not exclude wind and hail on a fire, allied lines, or homeowner's policy unless the property is in the area served by the South Carolina Wind and Hail Underwriting Association or the exclusion has been approved by the director or his designee.

SECTION 38-75-1240. Provision to director of underwriting restrictions based upon geography.

An insurer shall provide the director each year a listing of underwriting restrictions based upon geography and also provide notice of new changes to current underwriting restrictions. These restrictions do not require approval of the director or his designee and are not public information.

SECTION 38-73-325. Absence of credit information.

Absence of credit information may be used by an insurer for underwriting purposes only if the insurer presents information satisfactory to the director that the absence is related to the risk.

SECTION 38-73-425. Absence of credit information.

Absence of credit information may be used by an insurer for underwriting purposes only if the insurer presents information satisfactory to the director that the absence is related to the risk.

SECTION 38-73-910. Notice of hearing as a prerequisite to granting of rate increase; exceptions; rate level increase or decrease limitations; flexible rating for automobile insurance policies; report.

(A) An increase in the premium rates may not be granted for workers' compensation insurance, nor for any other line or type of insurance with respect to which the director or his designee has, by order, made a finding that (a) legal or other compulsion upon the part of the insured to purchase the insurance interferes with competition, or (b) under prevailing circumstances there does not exist substantial competition, unless notice is given in all newspapers of general, statewide circulation at least thirty days in advance of the insurer's proposed effective date of the increase in premium rates. The notice must state the amount of increase, the type and line of coverage, and the proposed effective date and must allow any insured or affected party to request within fifteen days a public hearing upon the propriety of the rate increase request before the Administrative Law Judge Division. A copy of the notice must be sent to the Consumer Advocate.

However, the requirements of public notices and public hearings in this section do not apply to applications for rate increases when the applicant insurer had earned premiums in this State in the previous calendar year of less than two million dollars for the line or type of insurance for which the rate increase is sought or, if the rate increase is sought by a modeling organization, the earned premiums in this State for all members and subscribers of the organization for whom an increase is sought were less than two million dollars for the previous calendar year for the line or type of insurance for which the rate increase is sought. The two million dollars must be increased by a factor equal to the increase in the consumer price index, all items, every three years.

(B) Except as provided in subsection (C), overall average rate level increases or decreases, for all coverages combined, of seven percent above or below the insurer's rates then in effect may take effect without prior approval on a file and use basis with respect to rates for automobile insurance policies. The seven percent cap does not apply on an individual insured basis.

(C) Notwithstanding any other provisions of this chapter, for any policies governed by this section, filings that produce rate level changes within the limitation specified in subsection (B) become effective without prior approval; provided, that (1) no more than one rate increase within the limitation specified in subsection (B) may be implemented during any twelve-month period, and (2) no rate increase within the limitation specified in subsection (B) may be implemented until the onset of the new policy period unless the insurer, at least thirty days in advance of the end of the policy period, mails or delivers to the named insured at the address shown in the policy a written notice of its intention to change the rate. The overall statewide rate change implemented under this section must be stated in the notice.

A rate increase or decrease falling within the limitation in subsection (B) may become effective not less than thirty days after the date of the filing with the director. The filing is deemed to meet the requirements of this chapter. The director may find that such a filing is not in compliance with this chapter. In the event of such a finding, the director shall issue a written order specifying in detail the provisions with which the insurer has not complied and state a reasonable period thereafter in which the filing shall be deemed no longer effective. Any order by the director pursuant to this section that is issued more than thirty days from the date on which the director received the rate filing shall be on a prospective basis only and shall not affect any contract issued or made prior to the effective date of the order.

Rate filings falling outside the limitation specified in subsection (B) are subject to the prior approval of the director. The director shall approve or disapprove these filings in accordance with the provisions of Sections 38-73-960 and 38-73-990.

(D) Individual automobile insurance companies and member companies of an affiliated group of automobile insurers may utilize different filed rates for automobile insurance coverages in accordance with rating plans filed with and approved by the director. These rating plans may provide for different rates, rating tiers, and rating plans among affiliated companies. For the purpose of this subsection, an affiliated group of automobile insurers includes a group of automobile insurers under common ownership, management, or control.

(E) The Director of the Department of Insurance or his designee shall promulgate regulations to implement the provisions of this section.

(F) On or before March 31, 2004, the Director of the Department of Insurance or his designee shall report to the General Assembly on the effectiveness of flexible rating for automobile insurance policies. The report may not include data regarding a specific insurer or insurer group, except data that is in the public record, and must analyze the impact of flexible rating on:

- (1) the extent and nature of competition;
- (2) size and significance of coverage;
- (3) level and range of rates and rate changes among insurers;
- (4) extent of consumer complaints to the Department of Insurance;
- (5) volume of cancellations and nonrenewals;

- (6) changes in the number of policies by territory and by class, including age and sex, in each territory; and
 - (7) the number of new insured, nonrenewed insured, and business written by each insurer.
- (G) This section does not apply to insurers who write only exempt commercial policies. Exempt commercial policies are not subject to prior approval of the department.

SECTION 38-73-510. Nonpartisan rating bureau for workers' compensation.

Every workers' compensation insurer, including the parties to any mutual insurance association, must be a member of a nonpartisan rating bureau. The stock and nonstock insurers which are members of the bureau must be represented in the bureau management and on all committees of the bureau. One-half of the members of each committee must be chosen by the stock companies and one-half by the nonstock companies. In a case of a tie vote on any committee the director or his designee shall cast the deciding vote.

SECTION 38-73-515. Deductibles.

(A) Each insurer issuing a policy of workers' compensation insurance shall offer, as a part of the policy or as an optional endorsement to the policy, deductibles optional to the policyholder for benefits payable under Title 42. Deductible amounts offered must be disclosed fully to the prospective policyholder in writing in the amount of one hundred dollars, two hundred dollars, three hundred dollars, four hundred dollars, five hundred dollars, or increments of five hundred dollars up to a maximum of two thousand five hundred dollars for each compensable claim. The policyholder exercising the deductible option shall choose only one deductible amount.

(B) If the policyholder exercises the option and chooses a deductible, the insured employer is liable for the amount of the deductible for benefits paid for each compensable claim of work injury suffered by an employee. The insurer shall pay all or part of the deductible amount, whichever is applicable to a compensable claim, to the person or provider entitled to the benefits conferred by this chapter and then seek reimbursement from the insured employer for the applicable deductible amount. The payment or nonpayment of deductible amounts by the insured employer to the insurer must be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums.

(C) Optional deductibles must be offered in each policy insuring liability for workers' compensation which is issued, delivered, issued for delivery, or renewed after June 30, 1996, unless an insured employer and insurer agree to renegotiate a workers' compensation insurance policy in effect on July 1, 1996, so as to include a provision allowing for a deductible.

(D) Premium reduction for deductibles must be determined before the application of any experience modification, premium surcharge, or premium discounts. To the extent that an employer's experience rating or safety record is based on benefits paid, money paid by the insured employer under a deductible as provided in this section must not be included as benefits paid so as to harm the experience rating of the employer.

(E) This section does not apply to employers who are approved to self-insure against liability for workers' compensation or group self-insurance funds for workers' compensation established pursuant to the laws of this State.

SECTION 38-73-490. Workers' compensation rates.

To secure fair, reasonable, adequate, and nondiscriminatory rates for workers' compensation insurance the director or his designee shall approve the rate for each classification under which workers' compensation insurance is written, which rate and classification must be the same for all insurers. The director or his designee shall, in approving the rates, make use of the experience data which may be available and any other helpful information that may be obtainable.

A proceeding under this section is considered a proceeding to fix or alter rates for consumer services in relation to the duties of the Division of Consumer Advocacy.

SECTION 38-73-495. Authority to disapprove previously approved rate for classification of worker's compensation insurance; reassignment of classifications; time for filing appeal.

The director or his designee may:

- (1) disapprove a previously approved rate for any classification for workers' compensation insurance upon a finding that the rate for that classification is excessive, inadequate, or unfairly discriminatory;
- (2) require the division of a particular classification into separate classifications, or the joining of separate classifications into one classification, upon a finding that such action is in the public interest;
- (3) direct that a particular risk be classified in a particular classification upon a finding that a risk is classified incorrectly;
- (4) disapprove an experience modification rate for workers' compensation insurance upon a finding that the rate is excessive, inadequate, or unfairly discriminatory.

Appeals to the department must be filed within one year of policy expiration date or cancellation date, whichever comes first.

SECTION 38-73-500. Merit rating for workers' compensation insurance; credit; testing.

(A) For the purpose of uniformity and equality the director or his designee shall approve a system of merit rating for use in the writing of workers' compensation insurance. No system of merit rating except the one so approved may be used.

(B) This system of merit rating shall include a credit of at least five percent for an insured who participates in a program designed to prevent the use of drugs or alcoholic beverages on the job by employees of the insured. The credit must be actuarially sound and filed with the director or his designee. However, if the director determines that a credit of at least five percent is not actuarially sound, the director shall allow and order a credit of less than five percent which is actuarially sound. The director or his designee shall provide for certification of an employer drug prevention program and shall promulgate regulations for the implementation of this subsection including, but not limited to, the establishment of guidelines or a plan defining a qualified employer drug prevention program eligible for the credit which shall be used by the insurer unless the insurer has established its own guidelines or plan. In the establishment of guidelines or a plan by the director or insurer concerning a qualified drug prevention program eligible for the credit, the guidelines or plan shall include the policy statement and employee notification requirement pursuant to Section 41-1-15.

(C) The testing procedure established by the insurer, employer, or his designee, or, approved by the director, must include a provision for random sampling of all persons who receive wages and compensation in any form from the employer and must provide for a second test to be administered within thirty minutes of the administration of the first test. Positive test results must be provided in writing to the employee within twenty-four hours of the time the employer receives the test results. Each employer must keep records of each test for up to one year.

SECTION 38-73-520. Rate filings required.

Every insurer shall file with the department, except as to exempt commercial policies, every manual of classifications, rules, and rates, every rating plan, and every modification of any of these which it proposes to use. The filing exemption shall not apply to loss cost filings by advisory or rating organizations. Every filing shall state the proposed effective date and shall indicate the character and extent of the coverage contemplated.

SECTION 38-77-30. Definitions.

As used in this chapter, unless the context requires otherwise:

- (1) “Automobile insurance” means automobile bodily injury and property damage liability insurance, including medical payments and uninsured motorist coverage, and automobile physical damage insurance such as automobile comprehensive physical damage, collision, fire, theft, combined additional coverage, and similar automobile physical damage insurance and economic loss benefits as provided by this chapter written or offered by automobile insurers. An automobile insurance policy includes a motor vehicle liability policy as defined in item (7) of Section 56-9-20 and any nonowner automobile insurance policy which covers an individual private passenger automobile not owned by the insured, a family member of the insured, or a resident of the same household as the insured.
- (2) “Automobile insurer” means an insurer licensed to do business in South Carolina and authorized to issue automobile insurance policies.
- (3) “Bodily injury” includes death resulting there from.
- (3.5) “Cancellation” or “to cancel” means a termination of a policy during the policy period.
- (4) “Damages” includes both actual and punitive damages.
- (4.5) “Facility physical damage rate” means the final rate or premium charge for physical damage coverage which must be established by adding the physical damage loss component developed under Section 38-77-596 to the expense component developed under Section 38-77-596.
- (5.2) “Facility physical damage rate” means the final rate or premium charge for physical damage coverage which must be established by adding the physical damage loss component developed under Section 38-73-780 to the expense component developed under Section 38-73-1420.
- (5.5)(a) “Individual private passenger automobile” means the following types of motor vehicles owned by or leased under a long-term contract by an individual or individuals:
 - (i) motor vehicles of the private passenger type or station wagon type;
 - (ii) panel trucks, delivery sedans, vehicles with a pickup body, vans, or similar motor vehicles designed for use on streets and highways and so licensed;
 - (iii) motor homes, so long as the motor vehicles described in (ii) and (iii) are not used in the occupation, profession, or business of the insured other than farming and ranching; and
 - (iv) motorcycles.
- (b) A motor vehicle is not considered “owned by or leased under a long-term contract by an individual or individuals” if the motor vehicle is owned by a partnership or corporation, unless the motor vehicle is owned by a farm family co partnership or a farm family corporation and is garaged principally on a farm or ranch.
- (c) A motor vehicle is not considered “used in the occupation, profession, or business of the insured”, because it is used in the course of driving to and from work.
- (d) Individual private passenger automobile does not include:
 - (i) motor vehicles that are used for public or livery conveyance or rented to others without a driver;
 - (ii) fire department vehicles, police vehicles, ambulances, and rescue squad vehicles which are publicly owned;
 - (iii) motor-driven cycles, motor scooters, and mopeds;
 - (iv) dune buggies, all-terrain vehicles, go carts, and snowmobiles;
 - (v) golf carts; and
 - (vi) small commercial risks.
- (6) “Institutional source” means any person or governmental entity that provides information about an individual to an agent, insurer, or insurance-support organization other than:
 - (a) an agent;
 - (b) the individual who is the subject of the information; or
 - (c) a natural person acting in a personal capacity rather than in a business or professional capacity.

(7) “Insured” means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured the motor vehicle to which the policy applies and a guest in the motor vehicle to which the policy applies or the personal representative of any of the above.

(8) “Insurance-support organization” means any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurer or agent for insurance transactions, including (i) the furnishing of consumer reports or investigative consumer reports to an insurer or agent for use in connection with an insurance transaction or (ii) the collection of personal information from insurers, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity. However, the following persons shall not be considered insurance-support organizations for purposes of this chapter: agents, governmental institutions, insurers, rating organizations, medical care institutions, and medical professionals.

(9) “Motor vehicle” means every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with these vehicles but excepting traction engines, road rollers, farm trailers, tractor cranes, power shovels and well-drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails. For purposes of this chapter, the term automobile has the same meaning as motor vehicle.

(10) “Nonpayment of premium” means failure of the named insured to pay when due any of his obligations in connection with the payment of premiums on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if membership is a condition precedent to insurance coverage.

(10.5) “Policy of automobile insurance” or “policy” means a policy or contract for bodily injury or property damage liability insurance issued or delivered in this State covering liability arising from the ownership, maintenance, or use of any motor vehicle, insuring as the named insured one individual or husband and wife who are residents of the same household, and under which the insured vehicle designated in the policy is either:

(a) a motor vehicle of a private passenger, station wagon, or motorcycle type that is not used commercially, rented to others, or used as a public or livery conveyance where the terms “public or livery conveyance” do not include car pools, or

(b) any other four-wheel motor vehicle which is not used in the occupation, profession, or business, other than farming, of the insured, or as a public or livery conveyance, or rented to others. The term “policy of automobile insurance” or “policy” does not include:

(i) any policy issued through the Associated Auto Insurers Plan,

(ii) any policy covering the operation of a garage, sales agency, repair shop, service station, or public parking place,

(iii) any policy providing insurance on an excess basis such as an umbrella policy, or

(iv) any other contract providing insurance to the named insured even though the contract may incidentally provide insurance on motor vehicles.

(11) “Quota share reinsurance” means that form of reinsurance in which the reinsurer assumes a fixed percentage of the insured risk.

(12) “Renewal” or “to renew” means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, the renewal policy to provide types and limits of coverage at least equal to those contained in the policy being superseded, or the issuance and delivery of a certificate or notice extending the terms of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended. However, any policy with a policy period or term of less than six months or any period with no fixed expiration date is considered as if written for successive policy periods or terms of six months.

(13) “Small commercial risk” means:

(a) Garage risks including nonvoter vehicle insurance when written in combination with automobile liability coverage.

(b) Ambulance risks.

(c) Commercial risks which have a manufacturer’s gross vehicular weight less than twenty thousand pounds and are not required to have a mandatory filing by a governmental authority other than an SR-22.

(d) Church buses used by a church to transport adults or children to and from services and in activities incidental to church functions, so long as a mandatory filing by any governmental authority other than an SR-22 is not required.

(e) Privately-owned school buses used to carry school children and students, their parents or guardians, members of the faculty, school board members, nurses, doctors, and dentists, as well as guests in connection with any school activity and operations incidental thereto, including games, outings, and similar road trips, so long as a mandatory filing by any governmental authority other than an SR-22 is not required.

“Small commercial risk” does not include pulpwood trucks or dump trucks.

(14) “Uninsured motor vehicle” means a motor vehicle as to which:

(a) there is not bodily injury liability insurance and property damage liability insurance both at least in the amounts specified in Section 38-77-140, or

(b) there is nominally that insurance, but the insurer writing the same successfully denies coverage thereunder, or

(c) there was that insurance, but the insurer who wrote the same is declared insolvent, or is in delinquency proceedings, suspension, or receivership, or is proven unable fully to respond to a judgment, and

(d) there is no bond or deposit of cash or securities in lieu of the bodily injury and property damage liability insurance.

(e) the owner of the motor vehicle has not qualified as a self-insurer in accordance with the applicable provisions of law.

A motor vehicle is considered uninsured if the owner or operator is unknown. However, recovery under the uninsured motorist provision is subject to the conditions set forth in this chapter.

Any motor vehicle owned by the State or any of its political subdivisions is considered an uninsured motor vehicle when the vehicle is operated by a person without proper authorization.

(15) “Underinsured motor vehicle” means a motor vehicle as to which there is bodily injury liability insurance or a bond applicable at the time of the accident in an amount of at least that specified in Section 38-77-140 and the amount of the insurance or bond is less than the amount of the insureds’ damages.

SECTION 38-77-350. Form to be used when optional coverages are offered.

(A) The director or his designee shall approve a form that automobile insurers shall use in offering optional coverages required to be offered pursuant to law to applicants for automobile insurance policies. This form must be used by insurers for all new applicants. The form, at a minimum, must provide for each optional coverage required to be offered:

- (1) a brief and concise explanation of the coverage;
- (2) a list of available limits and the range of premiums for the limits;
- (3) a space to mark whether the insured chooses to accept or reject the coverage and a space to state the limits of coverage the insured desires;
- (4) a space for the insured to sign the form that acknowledges that the insured has been offered the optional coverages;
- (5) the mailing address and telephone number of the insurance department that the applicant may contact if the applicant has questions that the insurance agent is unable to answer.

(B) If this form is signed by the named insured, after it has been completed by an insurance producer or a representative of the insurer, it is conclusively presumed that there was an informed, knowing selection of coverage and neither the insurance company nor an insurance agent is liable to the named insured or another insured under the policy for the insured's failure to purchase optional coverage or higher limits.

(C) An automobile insurer is not required to make a new offer of coverage on any automobile insurance policy which renews, extends, changes, supersedes, or replaces an existing policy.

(D) Compliance with this section satisfies the insurer and agent's duty to explain and offer optional coverages and higher limits and no person, including, but not limited to, an insurer and insurance agent is liable in an action for damages on account of the selection or rejection made by the named insured.

(E) If the insured fails or refuses to return an executed offer form within thirty days to the insurer, the insurer shall add on uninsured motorist and underinsured motorist coverages with the same policy limits as the insured's liability limits.

SECTION 38-73-470. Disposition of uninsured motorist premium.

Two dollars of the yearly premium for uninsured motorist coverage is directed to be paid to the South Carolina Department of Public Safety to be placed on deposit with the State Treasurer in the "Uninsured Enforcement Fund", payable on a quarterly basis, to provide for the costs of enforcing and administering the provisions of Article 3, Chapter 10, Title 56. Of the two dollars collected, eighty cents must be distributed to the South Carolina Highway Patrol and one dollar twenty cents must be distributed to the Department of Motor Vehicles. Interest earned by the "Uninsured Fund" must be retained by that fund. There is no requirement for an insurer or an agent to offer underinsured motorist coverage at limits less than the statutorily required bodily injury or property damage limits.

SECTION 38-73-1105. Insurer's use of definition of "underinsured motor vehicle".

The definition of "underinsured motor vehicle" contained in item (14) of Section 38-77-30 may not be used by an insurer unless the insurer reduces his rate for underinsured motorist coverage by an amount determined appropriate by the director or his designee and refunds any such premium that the director or his designee determines is necessary to correspond with the new definition. An insurer may not use the definition in its settlement negotiations unless the insurer has filed and the director or his designee has approved an endorsement to its contract. If an insurer uses the new definition in its negotiations with a person before having the contract endorsed it is an unfair claims practice and, in addition, is bad faith entitling the injured person to reasonable attorney fees, punitive damages, and all actual damages.

SECTION 38-77-150. Uninsured motorist provision; defense of action by insurer; subrogation and assignment of benefits.

(A) No automobile insurance policy or contract may be issued or delivered unless it contains a provision by endorsement or otherwise, herein referred to as the uninsured motorist provision, undertaking to pay the insured all sums which he is legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle, within limits which may be no less than the requirements of Section 38-77-140. The uninsured motorist provision must also provide for no less than ten thousand dollars' coverage for injury to or destruction of the property of the insured in any one accident but may provide an exclusion of the first two hundred dollars of the loss or damage. The director or his designee may prescribe the form to be used in providing uninsured motorist coverage and when prescribed and promulgated no other form may be used.

(B) No action may be brought under the uninsured motorist provision unless copies of the pleadings in the action establishing liability are served in the manner provided by law upon the insurer writing the uninsured motorist provision. The insurer has the right to appear and defend in the name of the uninsured motorist in any action which may affect its liability and has thirty days after service of process on it in which to appear. The evidence of service upon the insurer may not be made a part of the record.

(C) Benefits paid pursuant to this section are subject to subrogation and assignment if an uninsured motorist has selected the option to be uninsured by paying the fee pursuant to Section 56-10-510.

SECTION 38-77-151. Collected funds to be placed in Uninsured Motorists Fund; use of funds.

All funds collected by the director of the Department of Motor Vehicles under the provisions of Chapter 10 of Title 56 must be placed on deposit with the State Treasurer and held in a special fund to be known as the "Uninsured Motorists Fund" to be disbursed as provided by law. Interest earned by the "Uninsured Motorists Fund" must be retained by that fund. The director of the Department of Insurance, as provided in Sections 38-77-154 and 38-77-155, may expend such funds for the administration of this chapter; provided, however, that the Department of Insurance shall retain ten percent of the Uninsured Motorists Fund to be used by the Department of Insurance to enforce the provisions of Title 38 including Sections 38-77-112, 38-77-122, and 38-77-123, to publish for consumers an automobile insurance buyer's guide, a brochure comparing automobile insurance premiums, and to provide for a public awareness campaign.

SECTION 38-77-154. Department of Insurance to supervise and control Uninsured Motorists Fund; purpose of fund.

The Uninsured Motorists Fund shall be under the supervision and control of the Department of Insurance. Payments from the Uninsured Motorists Fund shall be made on warrants of the Comptroller General issued on vouchers signed by a person designated by the director. The purpose of the Uninsured Motorists Fund is to reduce the cost of the insurance required by Section 38-77-150 and to protect and educate consumers as provided by Section 38-77-151.

SECTION 38-77-155. Distribution of funds; obtaining premium information.

The director shall distribute monies annually from the Uninsured Motorists Fund among the several insurers writing motor vehicle bodily injury and property damage liability insurance on motor vehicles registered in this State. Monies must be distributed in the proportion that each insurer's premium income for the auto liability coverage bears to the total premium income for auto liability coverage written in this State during the preceding year. Premium income must be gross premiums less cancellation and return premiums for coverage required by Section 38-77-150. The director shall obtain premium information from the annual statement filed by each insurer.

SECTION 38-77-160. Additional uninsured motorist coverage; underinsured motorist coverage.

Automobile insurance carriers shall offer, at the option of the insured, uninsured motorist coverage up to the limits of the insured's liability coverage in addition to the mandatory coverage prescribed by Section 38-77-150. Such carriers shall also offer, at the option of the insured, underinsured motorist coverage up to the limits of the insured liability coverage to provide coverage in the event that damages are sustained in excess of the liability limits carried by an at-fault insured or underinsured motorist or in excess of any damages cap or limitation imposed by statute. If, however, an insured or named insured is protected by uninsured or underinsured motorist coverage in excess of the basic limits, the policy shall provide that the insured or named insured is protected only to the extent of the coverage he has on the vehicle involved in the accident. If none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with the excess or underinsured coverage. Benefits paid pursuant to this section are not subject to subrogation and assignment. No action may be brought under the underinsured motorist provision unless copies of the pleadings in the action establishing liability are served in the manner provided by law upon the insurer writing the underinsured motorist provision. The insurer has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability and has thirty days after service of process on it in which to appear. The evidence of service upon the insurer may not be made a part of the record. In the event the automobile insurance insurer for the putative at-fault insured chooses to settle in part the claims against its insured by payment of its applicable liability limits on behalf of its insured, the underinsured motorist insurer may assume control of the defense of action for its own benefit. No underinsured motorist policy may contain a clause requiring the insurer's consent to settlement with the at-fault party.

SECTION 38-77-170. Conditions to sue or recover under uninsured motorist provision when owner or operator of motor vehicle causing injury or damage is unknown.

If the owner or operator of any motor vehicle which causes bodily injury or property damage to the insured is unknown, there is no right of action or recovery under the uninsured motorist provision, unless:

- (1) the insured or someone in his behalf has reported the accident to some appropriate police authority within a reasonable time, under all the circumstances, after its occurrence;
- (2) the injury or damage was caused by physical contact with the unknown vehicle, or the accident must have been witnessed by someone other than the owner or operator of the insured vehicle; provided however, the witness must sign an affidavit attesting to the truth of the facts of the accident contained in the affidavit;
- (3) the insured was not negligent in failing to determine the identity of the other vehicle and the driver of the other vehicle at the time of the accident.

The following statement must be prominently displayed on the face of the affidavit provided in sub item (2) above: A FALSE STATEMENT CONCERNING THE FACTS CONTAINED IN THIS AFFIDAVIT MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL PENALTIES AS PROVIDED BY LAW.

SECTION 38-77-190. Subrogation of insurer who pays claim under uninsured motorist provision to rights of insured.

An insurer paying a claim under the uninsured motorist provision required by Section 38-77-150 is subrogated to the rights of the insured to whom the claim was paid against any and every person causing the injury, death, or damage to the extent that payment was made. However, the insurer shall pay its proportionate part of any reasonable costs and expenses incurred in connection with any recovery, including reasonable attorneys' fees.

SECTION 38-77-200. Arbitration clause prohibited in uninsured motorist provision; requirements on insured; action and employment of counsel by insured.

The uninsured motorist provision may not require arbitration of any claim arising under it, nor may anything not otherwise herein provided for or as may be provided in the form prescribed by the director or his designee be required of the insured except the establishment of legal liability of the uninsured motorist, nor may the insured be restricted or prevented in any manner from employing legal counsel or instituting legal proceedings.

SECTION 38-77-210. Uninsured motorist provision not required to cover property damages paid to insured.

The uninsured motorist provision need not insure any liability for property damages for which loss a policyholder has been compensated by insurance or otherwise.

SECTION 38-77-200. Arbitration clause prohibited in uninsured motorist provision; requirements on insured; action and employment of counsel by insured.

The uninsured motorist provision may not require arbitration of any claim arising under it, nor may anything not otherwise herein provided for or as may be provided in the form prescribed by the director or his designee be required of the insured except the establishment of legal liability of the uninsured motorist, nor may the insured be restricted or prevented in any manner from employing legal counsel or instituting legal proceedings.

SECTION 38-77-210. Uninsured motorist provision not required to cover property damages paid to insured.

The uninsured motorist provision need not insure any liability for property damages for which loss a policyholder has been compensated by insurance or otherwise.

SECTION 38-77-130. Group automobile insurance; rate.

An automobile insurer may negotiate and contract for the sale of automobile insurance with any bona fide group of twenty or more persons who are employed by a common employer or who have been members for six months or more of a fraternal order, labor union, or employment association. The insurer may negotiate, enter a contractual relationship, and service the contract solely and directly with the bona fide representative of the group. An insurance contract sold on the basis of a group plan or contract shall have a rate not less than five percent less than the individual rate for which the insurer markets a substantially similar policy.

SECTION 38-77-120. Requirements for notice of cancellation of or refusal to renew policy.

(a) No cancellation or refusal to renew by an insurer of a policy of automobile insurance is effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. This notice:

- (1) must be approved as to form by the director or his designee before use;
- (2) must state the date not less than fifteen days after the date of the mailing or delivering on which the cancellation or refusal to renew becomes effective;

(3) must state the specific reason of the insurer for cancellation or refusal to renew and provide for the notification required by subsection (B) of Section 38-77-390. However, those notification requirements must not apply when the policy is being canceled or not renewed for the reason set forth in Section 38-77-123(B),

(4) must inform the insured of his right to request in writing within fifteen days of the receipt of notice that the director review the action of the insurer. The notice of cancellation or refusal to renew must contain the following statement to inform the insured of such right:

“IMPORTANT NOTICE

Within fifteen days of receiving this notice, you or your attorney may request in writing that the director review this action to determine whether the insurer has complied with South Carolina laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the director may require that your policy be reinstated. However, the director is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the director does not have the authority to overturn this action.”

(5) must inform the insured of the possible availability of other insurance which may be obtained through his agent, through another insurer, or through the Associated Auto Insurers Plan. It must also state that the Department of Insurance has available an automobile insurance buyer’s guide regarding automobile insurance shopping and availability, and provide applicable mailing addresses and telephone numbers, including a toll-free number, if available, for contacting the Department of Insurance.

Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation or refusal to renew, any additional disclosure statements required by state or federal laws, or any additional information relating to the availability of other insurance. The insurer must disclose in writing whether the insured is ceded to the facility.

(b) Subsection (a) of this section does not apply if the:

(1) insurer has manifested to the insured its willingness to renew by actually issuing or offering to the insured to issue a renewal policy, certificate, or other evidence of renewal, or has manifested such intention to the insured by any other means;

(2) named insured has demonstrated by some overt action to the insurer or its agent that he expressly intends that the policy be canceled or that it not be renewed.

SECTION 38-77-121. Application for original issuance of policy of insurance covering liability; cancellation notice; disclosure of previous cancellation or refusal to renew.

(A) Any application for the original issuance of a policy of insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle as defined in Section 38-77-30 must have the following statement printed on or attached to the first page of the application form, in boldface type: **“THE INSURER CAN CANCEL THIS POLICY FOR WHICH YOU ARE APPLYING WITHOUT CAUSE DURING THE FIRST 90 DAYS. THAT IS THE INSURER’S CHOICE. AFTER THE FIRST 90 DAYS, THE INSURER CAN ONLY CANCEL THIS POLICY FOR REASONS STATED IN THE POLICY.”**

(B) Any application for the original issuance of a policy of insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle defined in Section 38-77-30 that requires the insured to disclose information as to any previous cancellation or refusal to renew must also permit the insured to offer or provide a full explanation of the reason for the cancellation or refusal to renew.

(C) The notice required by this section must accompany the initial declarations page in the event the applicant is not provided a written copy at the time of the application and the coverage has been bound by the insurer.

(D) The insurer may cancel without cause at any time in the first ninety days during which the policy is in effect subject to Section 38-77-122.

This section does not apply to the renewal of any policy of insurance.

SECTION 38-77-122. Insurers and agents prohibited from refusing to issue automobile insurance policies due to certain factors; prohibited factors for premium rates.

(A) No insurer or agent shall refuse to issue an automobile insurance policy as defined in Section 38-77-30 because of any one or more of the following factors: the age, sex, location of residence in this State, race, color, creed, national origin, ancestry, marital status, or income level. No insurer or agent shall refuse to issue an automobile insurance policy as defined in Section 38-77-30 solely because of any one of the following factors: the previous refusal of automobile insurance by another insurer, prior purchase of insurance through the Associated Auto Insurers Plan, or lawful occupation, including the military service, of the person seeking the coverage. Nothing in this section prohibits any insurer from limiting the issuance of motor vehicle insurance policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect.

Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

(B) In determining the premium rates to be charged for an automobile insurance policy as defined in Section 38-77-30, it is unlawful to consider race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, or income level. Nor may an insurer, agent, or broker refuse to write or renew an automobile insurance policy as defined in Section 38-77-30 based upon age, sex, race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, or income level. However, nothing in this subsection may preclude the use of a territorial plan approved by the director. Any insurer or agent who violates this section shall be subject to the penalties as provided in Section 38-2-10. If the director of the Department of Insurance or his designee finds that an insurer or agent is participating in a pattern of unfair discrimination, the director or his designee may impose a fine of up to two hundred thousand dollars. Provided, however, if the unfair discrimination is required by an insurer, only the insurer is subject to the penalty as long as the agent of the insurer has reported the pattern of unfair discrimination to the department. The director or his designee at any time may examine an insurer or agent to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.

SECTION 38-77-123. Insurers and agents prohibited from refusing to renew automobile insurance policies due to certain factors; cancellation restrictions; penalties for violations.

(A)(1) No insurer shall refuse to renew an automobile insurance policy because of any one or more of the following factors:

- (a) age;
- (b) sex;
- (c) location of residence in this State;
- (d) race;
- (e) color;
- (f) creed;
- (g) national origin;
- (h) ancestry;
- (i) marital status;
- (j) income level.

(2) No insurer shall refuse to renew an automobile insurance policy solely because of any one of the following factors:

- (a) lawful occupation, including the military service;
- (b) lack of driving experience, or number of years of driving experience;
- (c) lack of supporting business or lack of the potential for acquiring such business;
- (d) one or more accidents or violations that occurred more than thirty-six months immediately preceding the upcoming anniversary date;
- (e) one or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;
- (f) single claim by a single insured submitted under the medical payments coverage or medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;
- (g) one or more claims submitted under the comprehensive or towing coverages. However, nothing in this section prohibits an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer mails or delivers to the insured at the address shown in the policy written, notice of the change in coverage at least thirty days before the renewal; or
- (h) two or fewer motor vehicle accidents within a three-year period unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator.

(3) Nothing contained in subsection (A)(1)(f), (g), and (h) of this subsection prohibits an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits an insurer from setting rates in accordance with relevant actuarial data except that no insurer may set rates based in whole or in part on race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, or income level. However, nothing in this subsection may preclude the use of a territorial plan approved by the director.

(B) No insurer shall cancel a policy except for one or more of the following reasons:

(1) The named insured or any other operator who either resides in the same household or customarily operates a motor vehicle insured under the policy has had his driver's license suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the ninety days immediately preceding the last anniversary of the effective date.

(2) The named insured fails to pay the premium for the policy or any installment of the premium, whether payable to the insurer or its agent either, directly or indirectly under any premium finance plan or extension of credit.

(C) There shall be no liability on the part of and no cause of action of any nature shall arise against the director or his designees; any insurer, its authorized representatives, its agents, or its employees; or any person furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew. For the purposes of this section, no insurer shall be required to furnish a notice of cancellation or refusal to renew to anyone other than the named insured, any person designated by the named insured, any other person to whom such notice is required to be given by the terms of the policy and the director.

(D) Within fifteen days of receipt of the notice of cancellation or refusal to renew, any insured or his attorney shall be entitled to request in writing to the director that he review the action of the insurer in canceling or refusing to renew the policy of the insured. Upon receipt of the request, the director shall promptly begin a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of Section 38-77-120 if the notice was sent by mail. The policy must remain in full force and effect during the pendency of the review by the director except where the cancellation or refusal to renew is for the reason set forth in subitem (2) of subsection (B) of this section, in which case the policy terminates as of the effective date stated in the notice. Where the director finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of Section 38-77-120, he shall immediately notify the insurer, the insured, and any other person to whom such notice was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the director to substitute his judgment as to underwriting for that of the insurer.

(E) Each insurer shall maintain for at least three years, records of cancellation and refusal to renew and copies of every notice or statement referred to in Section 38-77-120 of this section that it sends to any of its insureds.

(F) The provisions of this section do not apply to any insurer that limits the issuance of policies of motor vehicle liability insurance to one class or group of persons engaged in any one particular profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy of automobile insurance if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. No insurer is required to renew a policy if the insured becomes a nonresident of South Carolina.

(G) Any insurer who violates this section shall be subject to the penalties as provided in Section 38-2-10. If the director of the Department of Insurance or his designee finds that an insurer, agent, or broker is participating in a pattern of unfair discrimination, the director or his designee may impose a fine of up to two hundred thousand dollars. Provided, however, if the unfair discrimination is required by an insurer, only the insurer is subject to the penalty as long as the agent of the insurer has reported the pattern of unfair discrimination to the department. The director or his designee at any time may examine an insurer, agent, or broker to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.

SECTION 38-77-124. Refusal to issue or renew automobile insurance policy on basis of location of residence.

(A) Notwithstanding the provisions of Sections 38-77-122 and 38-77-123, an insurer may refuse to issue or renew an automobile insurance policy as defined in Section 38-77-30 on the basis of location of residence where the insurer has filed with the director a territorial plan setting forth the precise geographic areas of the state in which it will issue or renew policies. This territorial plan may not limit issuances or renewals to areas at any level smaller than a county, except that an insurer may include in its territorial plan an area smaller than a county which is contiguous to a whole county contained within the territorial plan provided, that the inclusion in the territorial plan of any such area at a level smaller than a county does not have the effect of excluding populations based upon any factors set out in Section 38-77-122(A) or Section 38-77-123(A)(1). The director must reject any territorial plan which violates the provisions of this section.

(B) No insurer or agent shall refuse to issue or fail to renew a policy of motor vehicle liability insurance solely because of the age of the motor vehicle to be insured, provided the motor vehicle is licensed.

SECTION 38-77-390. Written notice of cancellation or nonrenewal; request for reasons for cancellation or nonrenewal.

(A) In the event of a cancellation or nonrenewal, including those that involve policies referred to in Section 38-77-120, the insurer or agent responsible for the cancellation or nonrenewal shall give a written notice in a form approved by the director that:

(1) either provides the applicant, policyholder, or individual proposed for coverage with the specific reason or reasons for the cancellation or nonrenewal in writing or advises the person that upon written request he may receive the specific reason or reasons in writing; and

(2) provides the applicant, policyholder, or individual proposed for coverage with a summary of the rights established under subsection (B) of this section and Section 38-77-380.

(B) Upon receipt of a written request within ninety business days from the date of the mailing of notice or other communication of a cancellation or nonrenewal to an applicant, policyholder, or individual proposed for coverage, the insurer or agent shall furnish to the person within twenty-one business days from the date of receipt of the written request:

(1) the specific reason or reasons for the cancellation or nonrenewal in writing, if that information was not furnished initially in writing pursuant to subsection (A)(1);

(2) the specific items of personal and privileged information that support those reasons; however:

(a) the insurer or agent shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the director, that the applicant, policyholder, or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation, or material nondisclosure; and

(b) specific items of medical-record information supplied by a medical-care institution or medical professional must be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurer or agent prefers; and

(3) the names and addresses of the institutional sources that supplied the specific items of information given pursuant to subsection (B)(2) of this section. However, the identity of any medical professional or medical-care institution must be disclosed either directly to the individual or to the designated medical professional, whichever the insurer or agent prefers.

(C) The obligations imposed by this section upon an insurer or agent may be satisfied by another insurer or agent authorized to act on its behalf. However, the insurer or agent making the cancellation or nonrenewal shall remain responsible for compliance with the obligations imposed by this section.

(D) When a cancellation or nonrenewal results solely from an insured's oral request or inquiry, the explanation of reasons and summary of rights required by subsection (A) of this section may be given orally.

SECTION 38-73-736. Reduction in premium charges for insured persons fifty-five and older.

Any schedule of rates, rate classifications, or rating plans for automobile insurance as defined in Section 38-77-30 filed with the Department of Insurance must provide for an appropriate reduction in premium charges for those insured persons who are fifty-five years of age and older and who qualify as provided in Section 38-73-737.

SECTION 38-73-737. Driver training course credit toward liability and collision insurance coverage; qualifications for approved driver training course; qualified vehicles.

(A) Premium rates charged for liability coverages and collision coverage under a private passenger automobile insurance policy are subject to an appropriate driver training course credit once satisfactory evidence is presented that an applicant for the credit, who is not subject to the youthful operator approved driver training course credit mandated by Regulation 69-13.2(C), has completed successfully an approved driver training course. The amount of the credit may be determined by each individual insurer based upon factually or statistically supported data and is subject to prior approval by the commissioner. The credit must be afforded to the operator for thirty-six months from the date the approved driver training course was completed. The insurer may require as a condition of providing and maintaining the credit, that the insured for a three-year period after course completion not be involved in an accident for which the insured is at fault. The credit must be afforded by each insurer in a nondiscriminatory manner to all applicants, other than those considered within Regulation 69-13.2(C).

(B) "An approved driver training course" for purposes of this section is a driver training course which has been approved by the Department of Motor Vehicles and was conducted by:

- (1) a recognized college or university;
- (2) instructors certified by the Department of Motor Vehicles; or
- (3) any other school approved and supervised by the Department of Motor Vehicles.

(C) The requirements of the course, in order to qualify for the insurance credit, must include the following minimum criteria:

- (1) eight hours of classroom instruction;
- (2) the teaching method must include group discussion, lecture, and visual presentations;
- (3) the course materials must include age-related physical changes affecting older drivers, accident prevention measures, and a basic review of the rules-of-the-road including, but not limited to, rights of way, backing, entering, and leaving interstate highways; and
- (4) a relevant test on the course material.

(D) For purposes of this section "satisfactory evidence" is a certificate signed by an official of the school or the Department of Motor Vehicles, which certifies that:

- (1) the person achieved a passing grade on a relevant test on the course material;
- (2) the course was approved by and the instructors were certified by the Department of Motor Vehicles; and
- (3) the school was approved and supervised by the Department of Motor Vehicles.

(E) Only the vehicle driven by drivers who have completed successfully the driver training course qualifies for the insurance credit. In order for the credit to apply, the certificate must be furnished by the named insured, principal operator of the insured vehicle, and all occasional operators named in the policy as provided in Department of Insurance Regulation 69-13.1(II)(C). Other vehicles which may be operated by other family members who have not completed the driver training course do not qualify for the insurance credit unless the primary driver of the additional vehicle has successfully completed the driver training course.

(F) Only driver training courses taken on a voluntary basis qualify for the insurance credit. Driver training courses taken as a requirement of a driving offense including, but not limited to, ADSAP or driver training courses taken to reduce the number of traffic violation points against a driver's license, do not qualify for the insurance credit provided in this section.

SECTION 38-73-740. Certain information must be retained; inspection by applicant.

All information, including investigative and credit reports used in determining the classification or premium rates of any person applying for automobile insurance, must be kept on file by the insurer for at least three years from the date the application was made. Upon request of the applicant, the contents of the file must be made available for inspection by the applicant and copies of the documents must be furnished the applicant if he pays the cost of reproducing the copies.

SECTION 38-77-125. Name, address, and telephone number of insurance company must be stated or provided.

Every automobile insurance policy or other policy containing automobile insurance coverage on the face of the policy must state the complete name of the company issuing the policy, its address, and telephone number.

SECTION 38-77-126. Disclosure where rate level higher than lowest tier for that insurer or group.

Insurers must disclose to the insured if the rate level is higher than the lowest rate level tier for that insurer or the group to which the insurer is a member. The insurer must provide in writing the reason for the higher tier.

SECTION 38-73-935. Rate filings; information based upon; exceptions.

No rate filing for private passenger automobile insurance may include or be based upon actual or projected loss or expense data which includes payments made on policies, wherein the amount of the settlement, judgment, or other payment by the insurer was in excess of the policy limits, exclusive of interest and costs. No rate filing for private passenger automobile insurance may include or be based upon actual or projected loss or expense data which includes payments made as a result of the insurer's tortious breach of its duty of good faith and fair dealing.

SECTION 38-77-112. Automobile insurers not required to write coverage for automobile insurance for any applicants or existing policyholders; applicability of section

Notwithstanding Section 38-77-280, no automobile insurer is required to write coverage for automobile insurance as defined in Section 38-77-30 for any applicant or existing policyholder. An insurer or an agent shall retain, for a period of three years, the driver's license numbers for all persons who have submitted an application for insurance but who were refused coverage and shall furnish such information upon the request of the director of the Department of Insurance or his designee. This section does not apply to an individual who is handicapped and who owns a vehicle in this State but who does not have a valid driver's license. If an automobile is principally garaged and operated in this State, the owner of the vehicle can be offered coverage thereon regardless of whether or not he possesses a valid South Carolina driver's license if he designates to the insurer who the principal operator of the vehicle will be and this person has a valid South Carolina driver's license or otherwise meets the requirements of this section. This requirement does not apply to personnel of the Armed Forces of the United States on active duty and officially stationed in this State who possess a valid motor vehicle driver's license issued by another state or territory of the United States or the District of Columbia. This requirement is waived ninety days for individuals who move into South Carolina with the intent of making South Carolina their place of residence if they possess a valid driver's license issued by another state or territory of the United States or the District of Columbia.

SECTION 38-77-140. Bodily injury and property damage limits; general requirements.

(A) An automobile insurance policy may not be issued or delivered in this State to the owner of a motor vehicle or may not be issued or delivered by an insurer licensed in this State upon a motor vehicle then principally garaged or principally used in this State, unless it contains a provision insuring the persons defined as insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of these motor vehicles within the United States or Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows:

(1) twenty-five thousand dollars because of bodily injury to one person in any one accident and, subject to the limit for one person;

(2) fifty thousand dollars because of bodily injury to two or more persons in any one accident; and

(3) twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

(B) Nothing in this article prevents an insurer from issuing, selling, or delivering a policy providing liability coverage in excess of these requirements.

SECTION 38-77-141. Required notice to be attached to new policy or original premium notice of insurance covering liability regarding insurance premiums.

No new policy or original premium notice of insurance covering liability arising out of the ownership, maintenance, or use of a motor vehicle may be issued or delivered unless it contains the following statement printed in boldface type, or unless the statement is attached to the front of or is enclosed with the policy or premium notice:

“IMPORTANT NOTICE

IN ADDITION TO THE INSURANCE COVERAGE REQUIRED BY LAW TO PROTECT YOU AGAINST A LOSS CAUSED BY AN UNINSURED MOTORIST, IF YOU HAVE PURCHASED LIABILITY INSURANCE COVERAGE THAT IS HIGHER THAN THAT REQUIRED BY LAW TO PROTECT YOU AGAINST LIABILITY ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE MOTOR VEHICLES COVERED BY THIS POLICY, AND YOU HAVE NOT ALREADY PURCHASED UNINSURED MOTORIST INSURANCE COVERAGE EQUAL TO YOUR LIABILITY INSURANCE COVERAGE:

(1) YOUR UNINSURED AND UNDERINSURED MOTORIST INSURANCE COVERAGE HAS INCREASED TO THE LIMITS OF YOUR LIABILITY COVERAGE AND THIS INCREASE WILL COST YOU AN EXTRA PREMIUM CHARGE; AND

(2) YOUR TOTAL PREMIUM CHARGE FOR YOUR MOTOR VEHICLE INSURANCE COVERAGE WILL INCREASE IF YOU DO NOT NOTIFY YOUR AGENT OR INSURER OF YOUR DESIRE TO REDUCE COVERAGE WITHIN TWENTY DAYS OF THE MAILING OF THE POLICY OR THE PREMIUM NOTICE, AS THE CASE MAY BE;

(3) IF THIS IS A NEW POLICY AND YOU HAVE ALREADY SIGNED A WRITTEN REJECTION OF SUCH HIGHER LIMITS IN CONNECTION WITH IT, PARAGRAPHS (1) AND (2) OF THIS NOTICE DO NOT APPLY.”

After twenty days, the insurer is relieved of the obligation imposed by this subsection to attach or imprint the foregoing statement to any subsequently delivered renewal policy, extension certificate, other written statement of coverage continuance, or to any subsequently mailed premium notice.

SECTION 38-77-142. Policies or contracts of bodily injury or property damage liability insurance covering liability; required provisions.

(A) No policy or contract of bodily injury or property damage liability insurance covering liability arising from the ownership, maintenance, or use of a motor vehicle may be issued or delivered in this State to the owner of the vehicle or may be issued or delivered by an insurer licensed in this State upon a motor vehicle that is principally garaged, docked, or used in this State unless the policy contains a provision insuring the named insured and any other person using or responsible for the use of the motor vehicle with the expressed or implied consent of the named insured against liability for death or injury sustained or loss or damage incurred within the coverage of the policy or contract as a result of negligence in the operation or use of the vehicle by the named insured or by any such person. Each policy or contract of liability insurance, or endorsement to the policy or contract, insuring private passenger automobiles principally garaged, docked, or used in this State, that has as the named insured an individual or husband and wife who are residents of the same household and that includes, with respect to any liability insurance provided by the policy, contract, or endorsement for use of a nonowner automobile a provision requiring permission or consent of the owner of the automobile for the insurance to apply.

(B) No policy or contract of bodily injury or property damage liability insurance relating to the ownership, maintenance, or use of a motor vehicle may be issued or delivered in this State to the owner of a vehicle or may be issued or delivered by an insurer licensed in this State upon a motor vehicle principally garaged or used in this State without an endorsement or provision insuring the named insured, and any other person using or responsible for the use of the motor vehicle with the expressed or implied consent of the named insured, against liability for death or injury sustained, or loss or damage incurred within the coverage of the policy or contract as a result of negligence in the operation or use of the motor vehicle by the named insured or by any other person. If an insurer has actual notice of a motion for judgment or complaint having been served on an insured, the mere failure of the insured to turn the motion or complaint over to the insurer may not be a defense to the insurer, nor void the endorsement or provision, nor in any way relieve the insurer of its obligations to the insured, provided the insured otherwise cooperates and in no way prejudices the insurer.

Where the insurer has elected to provide a defense to its insured under such circumstances and files responsive pleadings in the name of its insured, the insured is not subject to sanctions for failure to comply with discovery pursuant to the South Carolina Rules of Civil Procedure unless it can be shown that the suit papers actually reached the insured, and that the insurer has failed after exercising due diligence to locate its insured, and as long as the insurer provides such information in response to discovery as it can without the assistance of the insured.

(C) Any endorsement, provision, or rider attached to or included in any policy of insurance which purports or seeks to limit or reduce the coverage afforded by the provisions required by this section is void.

SECTION 38-77-143. Maintenance, selling, etc. policies and contracts to be primary.

A policy or contract of insurance relating to the maintenance, selling, repairing, servicing, storing, or parking of motor vehicles shall be primary.

SECTION 38-77-180. “John Doe” actions against unknown defendant; service of process and defense by insurer; action against or joinder of identified owner or operator.

If the owner or operator of any vehicle causing injury or damages by physical contact is unknown, an action may be instituted against the unknown defendant as “John Doe” and service of process may be made by delivery of a copy of the summons and complaint or other pleadings to the clerk of the court in which the action is brought. The insurer has the right to defend in the name of John Doe. However, the bringing of an action against the unknown owner or operator as John Doe or the conclusion of that action does not constitute a bar to the insured, if the identity of the owner or operator who caused the injury or damages complained of becomes known, from bringing an action against the owner or operator previously proceeded against as John Doe. Notwithstanding the uninsured motorist provision nor any other provision of law, the joinder of any other person causing the injury as a party defendant, in an action against John Doe, is allowed.

SECTION 38-77-220. Additional liability which automobile insurance policy need not cover.

The automobile policy need not insure any liability under the Workers’ Compensation Law nor any liability on account of bodily injury to an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of the motor vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

SECTION 38-77-230. Certain payments under automobile insurance policy are not to be construed as admission or recognition of liability.

No payment made under an automobile insurance policy of a claim against any insured thereunder arising from any accident or other event insured against for damage to or destruction of property owned by another person is to be construed as an admission of liability by the insured, or the insurer’s recognition of liability, with respect to any other claim arising from the same accident or event.

SECTION 38-77-260. General release, assignment of claims, and like documents.

(a) No person making payment or settlement of benefits for which the person is obligated under Sections 38-77-240 to 38-77-340 and no insurer may in connection with the payment or settlement of a claim for these first-party benefits or for any first-party benefits arising under an automobile insurer’s coverage including, but not limited to, medical payments and uninsured motorist coverage, obtain or attempt to obtain from the claimant receiving the benefits any general release, covenant not to sue, assignment, article of subrogation, or any other instrument or document which purports to assign to that person or insurer all or any portion of any claim which the claimant may have against any other party or his insurer arising out of legal liability or which purports to constitute an agreement by the claimant that any amount received as first party benefits must be deducted from any settlement or judgment recoverable from any other party or his insurer arising out of legal liability. Every such purported general release, covenant not to sue, or similar instrument is null and void unless

(1) the insurer or other person has delivered to the person entitled to the first-party benefits, or his legal representative, a disclosure statement, on a form approved by the director or his designee, fully and fairly disclosing the fact that the first-party benefits payable under Sections 38-77-240 to 38-77-340 are contractual obligations of the insurer or other person and are entirely separate and distinct from any obligation which the insurer or other person may have because of the legal liability of any person and that the person receiving the first-party benefits is not required and may not be required to release or relinquish any rights which he may have arising out of the legal liability of any person in order to receive payment or settlement of the first-party benefits arising under Sections 38-77-240 to 38-77-340 and (2) an interval of not less than three days has elapsed between the later of (i) the delivery of the disclosure statement or (ii) the payment or settlement of the first-party benefits and the execution of the general release, covenant not to sue, or similar instrument.

(b) [Repealed]

(c) [Repealed]

SECTION 38-77-270. Christian Science or any licensed healing art care and treatment.

Nothing in this title prohibits an insurer from providing Christian Science or any licensed healing art care and treatment. Any Christian Science or any licensed healing art care and treatment constitutes economic loss.

SECTION 38-77-280. Collision coverage; comprehensive coverage.

(A) Any automobile insurer may, at its own election, make collision coverage and either comprehensive or fire, theft, and combined additional coverage available to an insured or qualified applicant who requests the coverage at such rates and under such rules as have been approved by the director. Automobile insurers contracted pursuant to Section 38-77-590 for risks written by them through producers assigned by the facility governing board pursuant to that section may make available collision coverage and either comprehensive or fire, theft, and combined additional coverage available to an insured or qualified applicant who requests the coverage. Notwithstanding Section 38-77-590(g), a designated producer may have one or more voluntary outlets for automobile physical damage.

(B) Any automobile physical damage insurance coverage deductible or policy deductible does not apply to automobile safety glass.

(C) Notwithstanding Section 38-77-111, automobile physical damage insurance coverage may be ceded to the facility. However, automobile physical damage coverages ceded to the facility by an insurer or servicing carrier must be at the facility physical damage rate as defined in Section 38-77-30.

(D) In determining the premium rates to be charged on physical damage coverage or single interest collision coverage, it is unlawful to consider race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, or income level. Nor may an insurer, agent, or broker refuse to write or renew physical damage insurance coverage or single interest collision coverage based upon race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, or income level. However, nothing in this subsection may preclude the use of a territorial plan approved by the director. If the director of the Department of Insurance or the director's designee finds that an insurer, agent, or broker is participating in a pattern of unfair discrimination, the director or the director's designee may impose a fine of up to two hundred thousand dollars. The director or the director's designee at any time may examine an insurer, agent, or broker to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.

SECTION 38-77-330. Denial of claim or of delay of payment; payments due immediately; consequences of unnecessary delay.

No claim for damage to property resulting from a motor vehicle accident may be denied or payment delayed because the person who is entitled to payment or any other person has a claim pending for bodily injury which may have arisen from the same or any other accident. Whenever an insurer has the appropriate motor vehicle coverage for the party liable and there is no dispute as to either the liability for the payment of the full property damages or the amount of monetary equivalent of these damages, then the amount payable is immediately due and owing and must be paid promptly. If the director or his designee determines that the payment of the amount was unnecessarily delayed, he may assess interest on the amount at the rate of eight percent per annum.

SECTION 38-77-340. Agreement to exclude designated natural person from coverage.

Notwithstanding the definition of “insured” in Section 38-77-30, the insurer and any named insured must, by the terms of a written amendatory endorsement, the form of which has been approved by the director or his designee, agree that coverage under such a policy of liability insurance shall not apply while the motor vehicle is being operated by a natural person designated by name. The agreement, when signed by the named insured, is binding upon every insured to whom the policy applies and any substitution or renewal of it. However, no natural person may be excluded unless the named insured declares in the agreement that (1) the driver’s license of the excluded person has been turned in to the Department of Motor Vehicles or (2) an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

SECTION 38-77-341. Unfair trade practices.

It is an unfair trade practice as defined in Section 39-5-20 to:

- (1) knowingly and willfully make or cause to be made any false statement or representation of a material fact for use in an application for payment or for use in determining the right to payment under this chapter;
- (2) submit or cause to be submitted bills or requests for payment containing charges for services rendered which are substantially in excess of the person’s customary charges or in applicable cases substantially in excess of the person’s costs for such services, unless there is good cause for the bills or requests containing the charges or costs;
- (3) submit bills or requests for payment for work covered by insurance which are in excess of those submitted for similar work not covered by insurance;
- (4) submit bills or requests for payment which are inflated for the purpose of relieving the insured of the obligation for making a payment for such goods and services as a result of a deductible or copayment clause; or
- (5) in the case of a health care facility, as defined in Section 44-7-130, and a health care provider licensed pursuant to Title 40, charge a fee for:
 - (a) the search for and duplication of a medical record, in excess of sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages;
 - (b) searching and handling a medical record in excess of fifteen dollars per request plus actual postage and applicable sales tax;
 - (c) records copied at the request of a health care provider or for records sent to a health care provider at the request of a patient for the purpose of continuing medical care;
 - (d) more than the actual cost of reproduction of an X-ray. Actual cost means the cost of materials and supplies used to duplicate the X-ray and the labor and overhead costs associated with the duplication.

SECTION 38-77-370. Obligations of insurance-support organizations; access to personal information.

(A) If an individual, after proper identification, submits a written request to an insurance-support organization for access to recorded personal information about the individual that is reasonably described by the individual and reasonably able to be located and retrieved by the insurance-support organization, the insurance-support organization, within thirty business days from the date the request is received shall:

(1) inform the individual of the nature and substance of the recorded personal information in writing, by telephone, or by other oral communication, whichever the insurance-support organization prefers;

(2) permit the individual to see and obtain a copy of the recorded personal information pertaining to him or to obtain a copy of the recorded personal information by mail, whichever the individual prefers, unless the recorded personal information is in coded form, in which case an accurate translation in plain language must be provided in writing;

(3) disclose to the individual the identity, if recorded, of those persons to whom the insurance-support organization has disclosed the personal information within two years before the request, and if the identity is not recorded, the names of those insurance-support organizations or other persons to whom the information is disclosed normally; and

(4) provide the individual with a summary of the procedures by which he may request correction, amendment, or deletion of recorded personal information.

(B) Any personal information provided pursuant to subsection (A) of this section must identify the source of the information if it is an institutional source.



(C) Medical record information supplied by a medical care institution or medical professional and requested under subsection (A) of this section, together with the identity of the medical professional or medical care institution that provided the information, must be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurer, agent, or insurance-support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurer, agent, or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(D) Except for personal information provided under this section, an insurer, agent, or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(E) The obligations imposed by this section upon an insurer or agent may be satisfied by another insurer or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subsection (A) of this section, an insurer, agent, or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

(F) The rights granted to individuals in this section must extend to all natural persons to the extent information about them is collected and maintained by an insurer, agent, or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection must not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(G) For purposes of this section, "insurance-support organization" does not include "consumer reporting agency".

SECTION 56-10-280 . Insurance not to be issued for period less than six months; contract or policy valid for at least sixty days; cancellation within sixty days. [SC ST SEC  **56-10-280**]

(A) Contracts or policies of insurance issued to meet the financial responsibility requirements prescribed in this chapter must be issued for not less than six months. A contract or policy of insurance remains in effect at least sixty days notwithstanding a power of attorney which may purport to give the attorney-in-fact the right to effect cancellation on behalf of the insured. However, a contract or policy may be canceled within the first sixty days only under one or more of the following circumstances:

(1) a check or bank draft tendered by the insured for payment to an agent, an insurance company, or a premium finance company is returned unpaid for insufficient funds or other reason by the insured's financial institution. If the check or draft is an initial payment made by an applicant for insurance or a payment made by an insured to renew a policy, the cancellation is effective as of the policy inception or renewal date;

(2) the insured produces satisfactory proof from the Department of Motor Vehicles that he has sold or otherwise disposed of the insured vehicle or surrendered its tags and registration;

(3) the insured has secured another policy that meets the financial responsibility requirements prescribed in this chapter;

(4) the insured fails to pay when due the premium for the policy, an installment of the premium, or an installment payment under a premium service contract. The contract or policy of insurance must remain in effect for at least thirty days.

(B) This section does not prohibit refunds to the insured for cancellations after sixty days resulting from causes other than nonpayment of premium. Where an insurance company or premium finance company cancels a contract or policy pursuant to this section for nonpayment of premium under the circumstances in subsection (A) which occurs within the first sixty days, the insurance company, premium finance company, or agent may charge and collect a fifteen-dollar penalty in addition to that otherwise provided by law, and the penalty charge is not a premium charge.

SECTION 38-61-30. Promulgation of standards for readability of certain contracts and policies.

The department shall promulgate regulations which establish minimum standards for the readability of each homeowners, dwelling fire, automobile, accident and health, life, and all other forms of personal insurance, excluding commercial, fleet vehicle, and group insurance, which must be complied with by all insurers authorized to do business in this State. The standards shall include, but are not limited to, standards on an index of policy provisions, general organization of text, text readability, type size, type style, type spacing, and general appearance of the insurance contract.

SECTION 38-43-200. Splitting commissions with unlicensed persons.

(A) A licensed producer representing an insurer may not pay, directly or indirectly, any commission, brokerage, or other valuable consideration on account of any policy of insurance on any risk in this State to any nonresident or resident not duly licensed to act as producer or broker for the type of insurance involved.

(B) Notwithstanding the provisions of subsection (A), producers licensed under this title may write insurance at the request of other licensed producers or licensed brokers or licensed nonresident brokers and allow the licensed producers or licensed brokers or licensed nonresident brokers not exceeding one-half of the commissions which they receive on the business written.

(C) The limitations contained in subsection (B) with respect to the amount of commission which may be allowed other licensed producers or licensed brokers or licensed nonresident brokers do not apply where the insurance written is life insurance or accident and health insurance.

(D) This section does not prohibit the payment of a fee to a trade or professional association exempt from income tax under Section 501(c) of the Internal Revenue Code.

(E) Nothing in this section should be construed to prohibit any licensed insurance producer from rebating any portion of his commission collected on automobile insurance premiums to the insured upon that automobile insurance policy.

(F) An insurance company or insurance producer may not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed in accordance with Section 38-43-20 and is not licensed pursuant to that section.

(G) A person may not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this chapter and is not licensed pursuant to it.

(H) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this State if the person was required to be licensed under this chapter at the time of the sale, solicitation, or negotiation and was licensed pursuant to it at that time.

69-24. Workmen's Compensation--Dividends to Policyholders

Section 1. Background and Purpose. It has come to the attention of the South Carolina Insurance Commission that some Workmen's Compensation insurers and agents may be using unfairly discriminatory and other misleading practices in connection with policyholder dividend plans. In order to aid the South Carolina Insurance Commission in its efforts to prevent such practices and enforce the insurance laws of this state pertaining to such unlawful practices, the following regulation is deemed necessary.

Section 2. Rules for Filing of Dividend Plans. Each insurer which intends to issue Workmen's Compensation policies on a participating basis in South Carolina shall file with the Chief Insurance Commissioner of South Carolina any dividend plan or plans already implemented or intended to be implemented by such insurer including any amendments thereto. Each such insurer shall also attach to every workmen's compensation policy an endorsement thereto reading as follows:

The insured shall participate in the earnings of the company, only in accordance with law and with a plan applicable to this policy which has been filed with the Chief Insurance Commissioner of South Carolina, provided the insured has complied with all the terms of this policy with respect to the payment of premium.

Neither dividends nor any factor in their calculation may be guaranteed. By purchasing this policy, the insured obtains no contractual right to a dividend. Dividends are declared in the sole discretion of the governing body of the insurer, in accordance with law. Any representations to the contrary are false.

In lieu of an endorsement, the same or substantially similar wording may be incorporated as condition 18 of the standard Workmen's Compensation policy.

Section 3. Compliance with Insurance Laws and Regulations. Any dividend plan or plans filed pursuant to this regulation may provide for a reasonable classification of risks for purposes of determining dividends, but may not provide for rebates of premium or unfair discrimination in favor of individuals between insureds of the same class and hazard, as described in § 38-55-50. Specifically, any dividend plan which provides for higher rates of dividend and lower rates of commission, to risks with other characteristics affecting losses and expenses remaining the same, shall be deemed to be in violation of § 38-55-50. Any dividend plan which provides that dividends may not be paid under a policy unless the policy is renewed in the same company shall be deemed to be in violation of § 38-57-130.

This regulation in no way modifies or extends any of the sections dealing with unfair trade practices, §§ 38-57-20, et seq., and violations shall be treated pursuant to the procedures set forth in §§ 38-57-200 through 38-57-320 of the South Carolina Code of Laws of 1976, as amended.

Section 4. Effective Date. This regulation shall take effect 120 days after it is filed with the Secretary of State except that insurers may immediately upon the filing of the Regulation with the Secretary of State submit such dividend plans to the Chief Insurance Commissioner in accordance with this Regulation. (Based on Insurance Commission designation R11-76.)

69-64. Exempt Commercial Policies

A. Purpose

The purpose of this regulation is provided by South Carolina Code of Laws Section 38-77-530 that states in part:

"Beginning on March 1, 2002 and continuing thereafter, every insured or policyholder who does not have any insurance merit rating points pursuant to the Uniform Merit Rating Plan in effect upon the effective date of this act must not be surcharged for the recoupment of any facility assessments or losses; therefore, a clean or nonpointed risk shall no longer pay any form of recoupment seeking to recoup facility losses. Any surcharge as provided above during the period of March 1, 1999 through February 28, 2002 must be displayed as a part of the applicable premium charge for liability insurance coverage. However, beginning on March 1, 2002 every insured or policyholder who does have insurance merit rating points pursuant to the Uniform Merit Rating Plan in effect upon the effective date of this act shall be surcharged for the recoupment of any facility assessments or losses; therefore, these pointed risks shall be the only persons in the State of South Carolina who shall pay any recoupment fee for facility losses or assessments remaining in the facility on March 1, 2002 or any losses accruing in the facility after March 1, 2002. Furthermore, the director of the Department of Insurance shall promulgate a plan by regulation to recoup any losses remaining in the facility on March 1, 2002 or any losses accruing after March 1, 2002 only from those insureds or policyholders having insurance merit rating points as provided above. This plan shall include, but is not limited to, a schedule of recoupment and method of surcharge method whether a fixed fee, a percentage basis, or otherwise consider appropriate by the director."

B. Basis of Recoupment

Beginning on March 1, 2002 and continuing thereafter, a premium surcharge of 10% of liability premium shall be made on all drivers having points on March 1, 1999 on the basis of the merit rating plan in effect on March 1, 1999, as determined by convictions contained in the motor vehicle records.

C. Schedule of Recoupment

(1) Beginning on March 1, 2003 and each year thereafter, the director shall evaluate the funds collected by this surcharge and compare this amount with the projected runoff. The director may reduce the percentage surcharge from 10% to a lower amount or eliminate the surcharge completely by issuing a notice 120 days in advance to insurers that the director is considering reducing the percentage surcharge. The notice must include a 30 day period to allow comments from insurers. After the 30 day period has expired, the director may lower the surcharge by order.

(2) The director shall not lower the percentage surcharge unless the amount of recoupment projected to be recovered in the next fiscal year of the Reinsurance Facility is greater than the projected total remaining runoff of the South Carolina Reinsurance Facility. The collection of recoupment under this regulation must continue until the runoff obligations of the South Carolina Reinsurance Facility have been funded completely.

A. Purpose: The purpose of this regulation is to establish the definition of "exempt commercial policies" as provided by Section 38-1-20 (40) and referred to in Sections 38-73-340 and 38-73-520 and to explain the effect of the exemption.

B. Definition: "Exempt commercial policies" means all policies for commercial lines, as opposed to personal lines, insurance issued to commercial insureds, including all lines of commercial fire and allied insurance, inland marine insurance, commercial multi-peril insurance, casualty insurance including workers' compensation insurance, fidelity insurance and commercial automobile insurance. Insurance related to credit transactions written through financial institutions is not included within the definition of "exempt commercial policies." Professional liability insurance for physician and health care providers is not included within the definition of "exempt commercial policies."

C. Effect of Exemption: No insurer of exempt commercial policies will be required to file any classification, rate, rule, or rating plan, or modifications thereof, for any exempt commercial insurance line prior to its use in this State. However, loss cost filings by an advisory or rating organization must still be filed for approval under Sections 38-73-340 and 38-73-520 prior to an insurer's use of the loss cost component of such filings. Rates for exempt commercial policies remain subject to the provisions of Sections 38-73-330 and 38-73-430. Section 37-73-910 and Section 38-73-920 are not applicable to exempt commercial policies.

In order to maintain credible data and to encourage safety in the workplace, every workers' compensation insurer must continue to adhere to the uniform classification system and uniform experience rating system or plan developed by the nonpartisan rating bureau for workers' compensation insurance under Section 38-73-510. Workers' compensation insurers, if utilizing special rates for "exempt commercial policies" in this State, are required to maintain a desk file of all rates so used and to exhibit the desk file to the Department upon request.

D. Exempt Commercial Policy Forms: In connection with an exempt commercial policy, an insurer may use any commercial insurance policy, contract, certificate or endorsement, including any form or endorsement developed by an advisory organization. If the form or endorsement has not been previously filed with the Department by an advisory organization or by the insurer, the insurer utilizing the form or endorsement must notify the Department of its use by mailing a copy of the form or endorsement to the Department as soon as practicable after the insurer begins using it. An insurer is required to maintain a desk file of all forms or endorsements used in connection with exempt commercial policies written in this State and to exhibit the desk file to the Department upon its request.

Any policy, contract, certificate or endorsement for use with exempt commercial policies in this State may be subsequently disapproved for continued use on a prospective basis by the Director or his designee upon a finding that the policy form or endorsement:

- (1) does not meet the requirements of South Carolina law;
- (2) contains any provisions which are unfair, deceptive, ambiguous, misleading or unfairly discriminatory; or
- (3) is solicited by means of advertising communication or dissemination of information which is deceptive or misleading.

If a policy form or endorsement is determined not to be in compliance with the above requirements, the Director or his designee must issue an order specifying in detail how a specific provision(s) of the form or endorsement fails to meet the requirements and stating the date on which the form or endorsement can no longer be used. The Director's findings shall not affect policies in force prior to the date stated in the order. The insurer must thereafter, if required by the Director, submit to the Department a new policy form or endorsement, if any, replacing the discontinued form or endorsement.

69-24. Workmen's Compensation— Dividends to Policyholders

Section 1. Background and Purpose. It has come to the attention of the South Carolina Insurance Commission that some Workmen's Compensation insurers and agents may be using unfairly discriminatory and other misleading practices in connection with policyholder dividend plans. In order to aid the South Carolina Insurance Commission in its efforts to prevent such practices and enforce the insurance laws of this state pertaining to such unlawful practices, the following regulation is deemed necessary.

Section 2. Rules for Filing of Dividend Plans. Each insurer which intends to issue Workmen's Compensation policies on a participating basis in South Carolina shall file with the Chief Insurance Commissioner of South Carolina any dividend plan or plans already implemented or intended to be implemented by such insurer including any amendments thereto. Each such insurer shall also attach to every workmen's compensation policy an endorsement thereto reading as follows:

The insured shall participate in the earnings of the company, only in accordance with law and with a plan applicable to this policy which has been filed with the Chief Insurance Commissioner of South Carolina, provided the insured has complied with all the terms of this policy with respect to the payment of premium.

Neither dividends nor any factor in their calculation may be guaranteed. By purchasing this policy, the insured obtains no contractual right to a dividend. Dividends are declared in the sole discretion of the governing body of the insurer, in accordance with law. Any representations to the contrary are false. In lieu of an endorsement, the same or substantially similar wording may be incorporated as condition 18 of the standard Workmen's Compensation policy.

Section 3. Compliance with Insurance Laws and Regulations. Any dividend plan or plans filed pursuant to this regulation may provide for a reasonable classification of risks for purposes of determining dividends, but may not provide for rebates of premium or unfair discrimination in favor of individuals between insureds of the same class and hazard, as described in Section 38-55-50. Specifically, any dividend plan which provides for higher rates of dividend and lower rates of commission, to risks with other characteristics affecting losses and expenses remaining the same, shall be deemed to be in violation of Section 38-55-50. Any dividend plan which provides that dividends may not be paid under a policy unless the policy is renewed in the same company shall be deemed to be in violation of Section 38-57-130.

This regulation in no way modifies or extends any of the sections dealing with unfair trade practices, Sections 38-57-20, et seq., and violations shall be treated pursuant to the procedures set forth in Sections 38-57-200 through 38-57-320 of the South Carolina Code of Laws of 1976, as amended.

Section 4. Effective Date. This regulation shall take effect 120 days after it is filed with the Secretary of State except that insurers may immediately upon the filing of the Regulation with the Secretary of State submit such dividend plans to the Chief Insurance Commissioner in accordance with this Regulation. (Based on Insurance Commission designation R11-76.)

SECTION 38 73 1060. Use of rates and policy forms different from those filed; exceptions.

(A) Upon the written application of the insured, stating his reasons therefor, filed with the department and approved by the director or his designee, a rate different from that provided by a filing otherwise applicable may be used on any specific risk.

(B) Upon the written application of an insured which has aggregate insurance premiums, other than life, accident, and health, in excess of one hundred thousand dollars, stating the reasons therefor, filed with the department, and approved by the director or his designee, a policy form different from that provided by a filing otherwise applicable may be used on any specific risk. Any policy form filed with the department pursuant to this subsection must be considered approved if not approved or disapproved within thirty days of receipt by the department. However, the consent to form does not apply to policy forms providing private passenger automobile insurance coverage subject to the mandate to write, workers' compensation insurance coverage, or employer's liability insurance coverage and policy forms underwritten by joint underwriting transactions or joint insurance transactions.

Consent to Rate Procedures

Please type or print in black ink. Please mail two copies with a self-addressed stamped envelope for return purposes. You must file within 30 days of policy effective date.

1) Name of Insured: Enter the full name of the insured last name first, first name second and middle initial last.

2) Address of Insured: Enter the street address of the insured as well as the city, state and zip code.

3) Name of Insurer: Enter the name of the insurer offering the coverage below.

4) Policy: Identify the policy by policy number. Also, include the effective date and expiration date of the policy.

5) Line of Business: Describe what type of coverage these rates are for.

6) Amount of Coverage: Enter the amount of coverage as appropriate for the line of business.

7) Premium Charged: Enter the total amount charged for the above coverage. Also show separate rates for each amount of coverage if appropriate.

8) How ratios were calculated from approved filings: Describe how the above premium was calculated from the current approved rates. Include the premium for the above coverage that has been approved by the department.

9) Reason for application: State the reason the approved rates have been deviated from.

10) Signatures: The signature of the agent or whomever helped the insured complete this application should appear on the appropriate line as well as the date signed. Also, the insured must sign and date this application on the other lines. The applicant's signature should match the name printed on the first line of this application.

Note:

See Section 38-73-1060 Use of rates and policy forms different from those filed; exceptions

FOR COMMERCIAL LINES - CONSENT TO RATE, see Regulation 69-64 - Consent to Rate are "Exempt" from filing.

See Consent to Rate Application Form # 2011.